



***Substitute House Bill No. 5512***

***Public Act No. 08-175***

***AN ACT CONCERNING LIFE SETTLEMENTS.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 38a-465 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2008*):

As used in sections 38a-465 to 38a-465q, inclusive, as amended by this act, and subdivision (20) of section 38a-816:

[(1) "Accredited investor" means an accredited investor, as defined in 17 CFR Section 230.501(a), as amended from time to time.]

[(2) "Advertising" or "advertisement"] (1) "Advertisement" means any written, electronic or printed communication or any communication by means of recorded telephone messages or transmitted on radio, television, the Internet or similar communications media, including, but not limited to, film strips, motion pictures and videos, published, disseminated, circulated or placed before the public, directly or indirectly, for the purpose of creating an interest in or inducing a person to purchase or sell, assign, devise, bequest or transfer the death benefit or ownership of a life insurance policy or an interest in a life insurance policy pursuant to a [viatical] life settlement contract. [or a viatical settlement purchase

**Substitute House Bill No. 5512**

agreement.]

(2) "Broker" means a person who, on behalf of an owner and for a fee, commission or other valuable consideration, offers or attempts to negotiate life settlement contracts between an owner and one or more providers. "Broker" does not include an attorney, certified public accountant or financial planner accredited by a nationally recognized accreditation agency retained to represent the owner, whose compensation is not paid directly or indirectly by a provider or any other person except the owner.

(3) "Business of life settlements" means an activity involved in, but not limited to, offering to enter into, soliciting, negotiating, procuring, effectuating, monitoring or tracking of life settlement contracts.

[(3)] (4) "Chronically ill" means: (A) Being unable to perform at least two activities of daily living, including, but [are] not limited to, eating, toileting, transferring, bathing, dressing or continence; (B) requiring substantial supervision to protect from threats to health and safety due to severe cognitive impairment; or (C) having a level of disability similar to that described in subparagraph (A) of this subdivision as determined by the federal Secretary of Health and Human Services.

[(4)] (5) "Commissioner" means the Insurance Commissioner.

[(5)] (6) (A) "Financing entity" means an underwriter, placement agent, lender, purchaser of securities, purchaser of a policy or certificate from a [viatical settlement] provider, credit enhancer, or any entity that has a direct ownership in a policy or certificate that is the subject of a [viatical] life settlement contract; [, but:]

(i) Whose principal activity related to the transaction is providing funds to effect the [viatical] life settlement contract or purchase of one or more [viaticated] policies; and

***Substitute House Bill No. 5512***

(ii) Who has an agreement in writing with one or more [licensed viatical settlement] providers to finance the acquisition of [viatical] life settlement contracts.

(B) [Financing entity] "Financing entity" does not include a nonaccredited investor or [viatical settlement] a purchaser.

[(6)] (7) "Financing transaction" means any transaction in which a provider obtains financing [is obtained for the purchase, acquisition, transfer or other assignment of one or more viatical settlement contracts, viaticated policies or interests in such contracts or policies] from a financing entity, including, but not limited to, any secured or unsecured financing, any securitization transaction or any securities offering which is registered or exempt from registration under federal or state securities law, [, or in which one or more viatical settlement contracts, viaticated policies or interests therein are sold, assigned, transferred, pledged, hypothecated or otherwise disposed of.]

(8) "Insured" means the person covered under the policy being considered for sale in a life settlement contract.

(9) "Life expectancy" means the arithmetic mean of the number of months the insured under the life insurance policy to be settled can be expected to live as determined by a life expectancy company, life settlement company or investor considering medical records and experiential data.

(10) "Life insurance producer" means any person licensed in this state as a resident or nonresident insurance producer who has received qualification or authority for life insurance coverage or a life line coverage pursuant to chapter 702.

(11) (A) "Life settlement contract" means:

(i) A written agreement entered into between a provider and an

***Substitute House Bill No. 5512***

owner, establishing the terms under which compensation or anything of value will be paid, which compensation or thing of value is less than the expected death benefit of the insurance policy or certificate, in return for the owner's assignment, transfer, sale, devise or bequest of the death benefit or any portion of an insurance policy or certificate of insurance for compensation, provided the minimum value for a life settlement contract shall be greater than a cash surrender value or accelerated death benefit available at the time of an application for a life settlement contract;

(ii) The transfer for compensation or value of ownership or beneficial interest in a trust, or other entity that owns such policy, if the trust or other entity was formed or availed of for the principal purpose of acquiring one or more life insurance contracts, which life insurance contract insures the life of a person residing in this state;

(iii) A written agreement for a loan or other lending transaction, secured primarily by an individual or group life insurance policy; or

(iv) A premium finance loan made for a policy on or before the date of issuance of the policy where (I) the loan proceeds are not used solely to pay premiums for the policy and any costs or expenses incurred by the lender or the borrower in connection with the financing, (II) the owner receives, on the date of the premium finance loan, a guarantee of the future life settlement value of the policy, or (III) the owner agrees on the date of the premium finance loan to sell the policy, or any portion of its death benefit, on any date following the issuance of the policy.

(B) "Life settlement contract" does not include:

(i) A policy loan by a life insurance company pursuant to the terms of the life insurance policy or accelerated death provisions contained in the life insurance policy, whether issued with the original policy or as

***Substitute House Bill No. 5512***

a rider;

(ii) A premium finance loan, as defined in subparagraph (A)(iv) of this subdivision, or any loan made by a bank or other licensed financial institution, provided neither default on such loan or the transfer of the policy, in connection with such default, is pursuant to an agreement or understanding with any other person for the purpose of evading regulation under this part;

(iii) A collateral assignment of a life insurance policy by an owner;

(iv) A loan made by a lender that does not violate sections 38a-162 to 38a-170, inclusive, provided such loan is not described in subparagraph (A) of this subdivision and is not otherwise within the definition of life settlement contract;

(v) An agreement where all the parties are closely related to the insured by blood or law or have a lawful substantial economic interest in the continued life, health and bodily safety of the person insured, or are trusts established primarily for the benefit of such parties;

(vi) Any designation, consent or agreement by an insured who is an employee of an employer in connection with the purchase by the employer, or trust established by the employer, of life insurance on the life of the employee;

(vii) A bona fide business succession planning arrangement: (I) Between one or more shareholders in a corporation or between a corporation and one or more of its shareholders or one or more trusts established by its shareholders; (II) between one or more partners in a partnership or between a partnership and one or more of its partners or one or more trusts established by its partners; or (III) between one or more members in a limited liability company or between a limited liability company and one or more of its members or one or more trusts established by its members;

***Substitute House Bill No. 5512***

(viii) An agreement entered into by a service recipient or a trust established by the service recipient, and a service provider or a trust established by the service provider, that performs significant services for the service recipient's trade or business; or

(ix) Any other contract, transaction or arrangement from the definition of life settlement contract that the commissioner determines is not of the type intended to be regulated by this part.

(12) "Net death benefit" means the amount of the life insurance policy or certificate to be settled less any outstanding debts or liens.

(13) "Owner" means the owner of a life insurance policy or a certificate holder under a group policy, with or without a terminal illness, who enters or seeks to enter into a life settlement contract. For the purposes of this part, an owner shall not be limited to an owner of a life insurance policy or a certificate holder under a group policy that insures the life of an individual with a terminal or chronic illness or condition, except where specifically addressed. "Owner" does not include: (A) Any provider or other licensee under this part; (B) a qualified institutional buyer, as defined in Rule 144A of the federal Securities Act of 1933, as amended from time to time; (C) a financing entity; (D) a special purpose entity; or (E) a related provider trust.

(14) "Patient identifying information" means an insured's address, telephone number, facsimile number, electronic mail address, photograph or likeness, employer, employment status, Social Security number or any other information that is likely to lead to the identification of the insured.

[(7)] (15) "Person" means a natural person or a legal entity, including, but not limited to, an individual, partnership, limited liability company, association, trust or corporation.

[(8) "Nonaccredited investor" means an investor that does not

***Substitute House Bill No. 5512***

qualify as an accredited investor.]

[(9)] (16) "Policy" means an individual or group policy, group certificate, contract or arrangement of life insurance [affecting the rights of] owned by a resident of [the] this state, [or bearing a reasonable relation to the state,] regardless of whether delivered or issued for delivery in this state.

[(10) "Qualified institutional buyer" means a qualified institutional buyer, as defined in 17 CFR Section 230.144A, as amended from time to time.]

(17) "Premium finance loan" means a loan made primarily for the purposes of making premium payments on a life insurance policy, which loan is secured by an interest in such life insurance policy.

(18) "Provider" means a person, other than an owner, who enters into or effectuates a life settlement contract with an owner. "Provider" does not include:

(A) Any bank, savings bank, savings and loan association or credit union;

(B) A licensed lending institution, creditor or secured party pursuant to a premium finance loan agreement that takes an assignment of a life insurance policy or certificate issued pursuant to a group life insurance policy as collateral for a loan;

(C) The insurer of a life insurance policy or rider providing accelerated death benefits or riders pursuant to section 38a-457 or cash surrender value;

(D) A natural person who enters into or effectuates no more than one agreement in a calendar year for the transfer of a life insurance policy or certificate issued pursuant to a group life insurance policy,

***Substitute House Bill No. 5512***

for compensation or any value less than the expected death benefit payable under the policy;

(E) A purchaser;

(F) An authorized or eligible insurer that provides stop loss coverage to a provider, purchaser, financing entity, special purpose entity or related provider trust;

(G) A financing entity;

(H) A special purpose entity;

(I) A related provider trust;

(J) A broker; or

(K) An accredited investor or a qualified institutional buyer, as defined in Rule 501 of Regulation D or Rule 144A, respectively, of the federal Securities Act of 1933, as amended from time to time, who purchases a life settlement policy from a provider.

(19) "Purchased policy" means a policy or group certificate that has been acquired by a provider pursuant to a life settlement contract.

(20) "Purchaser" means a person who pays compensation or anything of value as consideration for a beneficial interest in a trust that is vested with, or for the assignment, transfer or sale of, an ownership or other interest in a life insurance policy or a certificate issued pursuant to a group life insurance policy that is the subject of a life settlement contract.

[(11)] (21) "Related provider trust" means a titling trust or other trust established by a licensed [viatical settlement] provider or a financing entity for the sole purpose of holding the ownership or beneficial interest in purchased policies in connection with a financing



***Substitute House Bill No. 5512***

transaction.

(22) "Settled policy" means a life insurance policy or certificate that has been acquired by a provider pursuant to a life settlement contract.

~~[(12)]~~ (23) "Special purpose entity" means a corporation, partnership, trust, limited liability company or other similar entity formed solely to provide, either directly or indirectly, access to institutional capital markets (A) for a financing entity or [licensed viatical settlement] provider, (B) in connection with a transaction in which the securities in the special purpose entity are acquired by the owner or by a qualified institutional buyer, as defined in Rule 144A of the federal Securities Act of 1933, as amended from time to time, or (C) the securities pay a fixed rate of return commensurate with established asset-backed institutional capital markets.

(24) "Stranger-originated life insurance" means an act, practice or arrangement to initiate a life insurance policy for the benefit of a third-party investor who, at the time of policy origination, has no insurable interest in the insured. Such practices include, but are not limited to, cases in which life insurance is purchased with resources or guarantees from or through a person or entity, who, at the time of policy inception, could not lawfully initiate the policy himself or itself, and where, at the time of inception, there is an arrangement or agreement, whether verbal or written, to directly or indirectly transfer the ownership of the policy or the policy benefits to a third-party. Trusts created to give the appearance of insurable interest and used to initiate policies for investors violate insurable interest laws and the prohibition against wagering on life. Stranger-originated life insurance arrangements do not include those practices set forth in subparagraph (B) of subdivision (11) of this section.

~~[(13)]~~ (25) "Terminally ill" means having an illness or sickness that can reasonably be expected to result in death in twenty-four months or

***Substitute House Bill No. 5512***

less.

[(14) "Viatical settlement" means a transaction between a viator and a viatical settlement provider in which the viatical settlement provider pays compensation or other value in return for the viator's assignment, transfer, sale, devise or bequest to the viatical settlement provider of the ownership of, or the death benefit payable under, a life insurance policy or a certificate.

(15) "Viatical settlement broker" or "broker" means a person who, on behalf of a viator and for a fee, commission or other valuable consideration, offers or attempts to negotiate viatical settlement contracts between a viator and one or more viatical settlement providers. "Viatical settlement broker" does not include an attorney, certified public accountant or a financial planner accredited by a nationally recognized accreditation agency who is retained to represent the viator and whose compensation is not paid directly or indirectly by the viatical settlement provider or viatical settlement purchaser.

(16) "Viatical settlement contract" means a written agreement establishing the terms under which compensation or anything of value will be paid, which compensation or value is less than the expected death benefit of a policy in return for the viator's assignment, transfer, sale, devise or bequest of the death benefit or ownership of any portion of the policy. A viatical settlement contract includes, but is not limited to, (A) a contract for a loan or other financing transaction with a viator secured primarily by an individual or group life insurance policy, other than a loan by a life insurance company pursuant to the terms of the life insurance contract, or a loan secured by the cash value of a policy, or (B) an agreement with a viator to transfer ownership or change the beneficiary designation at a later date regardless of the date that compensation is paid to the viator.

***Substitute House Bill No. 5512***

(17) "Viatical settlement investment agent" means a person who is an appointed or contracted agent of a licensed viatical settlement provider who solicits or arranges the funding for the purchase of a viatical settlement by a viatical settlement purchaser and who is acting on behalf of a viatical settlement provider.

(18) "Viatical settlement provider" means a person, other than a viator, who enters into or effectuates a viatical settlement contract. Viatical settlement provider does not include:

(A) A bank, savings bank, savings and loan association, credit union or other licensed lending institution that takes an assignment of a life insurance policy as collateral for a loan;

(B) The issuer of a life insurance policy providing accelerated benefits pursuant to section 38a-457 and pursuant to the contract;

(C) An authorized or eligible insurer that provides stop loss coverage to a viatical settlement provider, viatical settlement purchaser, financing entity, special purpose entity or related provider trust;

(D) A natural person who enters into or effectuates no more than one agreement in a calendar year for the transfer of a life insurance policy for any value less than the expected death benefit;

(E) A financing entity;

(F) A special purpose entity;

(G) A related provider trust;

(H) A viatical settlement purchaser; or

(I) An accredited investor or qualified institutional buyer who purchases a viaticated policy from a viatical settlement provider.

***Substitute House Bill No. 5512***

(19) "Viatical settlement purchase agreement" means a contract or agreement, entered into by a viatical settlement purchaser, to which the viator is not a party, to purchase a life insurance policy or an interest in a life insurance policy, that is entered into for the purpose of deriving an economic benefit.

(20) "Viatical settlement purchaser" means a person who gives a sum of money as consideration for a life insurance policy or an interest in the death benefits of a life insurance policy, or a person who owns or acquires or is entitled to a beneficial interest in a trust that owns a viatical settlement contract or is the beneficiary of a life insurance policy that has been or will be the subject of a viatical settlement contract, for the purpose of deriving an economic benefit. Viatical settlement purchaser does not include:

- (A) A licensee under this part;
- (B) An accredited investor or qualified institutional buyer;
- (C) A financing entity;
- (D) A special purpose entity; or
- (E) A related provider trust.

(21) "Viaticated policy" means a life insurance policy or certificate that has been acquired by a viatical settlement provider pursuant to a viatical settlement contract.

(22) "Viator" means the owner of a life insurance policy or a certificate holder under a group policy who enters or seeks to enter into a viatical settlement contract. For the purposes of this part, a viator shall not be limited to an owner of a life insurance policy or a certificate holder under a group policy insuring the life of an individual with a terminal or chronic illness or condition except where

**Substitute House Bill No. 5512**

specifically provided. Viator does not include:

- (A) A licensee under this part;
- (B) An accredited investor or qualified institutional buyer;
- (C) A financing entity;
- (D) A special purpose entity; or
- (E) A related provider trust.]

Sec. 2. Section 38a-465a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2008*):

(a) Except as otherwise provided in this part, no person [may] shall act as a [viatical settlement] provider [,] or [viatical settlement] broker [or viatical settlement investment agent] until the person is licensed by the commissioner pursuant to this section. [, except that any person who holds a resident or nonresident insurance producer license pursuant to chapter 702 may act as a viatical settlement broker, and shall be subject to the provisions of subsection (a) of section 38a-11, sections 38a-465 to 38a-465q, inclusive, and subdivision (20) of section 38a-816, as if such person is a licensed viatical settlement broker.]

(b) Any applicant for a license as a [viatical settlement] provider [,] or [viatical settlement] broker [or viatical settlement investment agent] shall submit written application to the commissioner. Such applicants shall provide such information as the commissioner requires. All initial applications shall be accompanied by a filing fee specified in section 38a-11 of the 2008 supplement to the general statutes, as amended by this act.

(c) A life insurance producer, who has been duly licensed as a resident insurance producer with a life line of authority in this state or in said producer's home state for not less than one year and is licensed

***Substitute House Bill No. 5512***

as a nonresident producer pursuant to section 38a-702g, shall be deemed to meet the licensing requirements of this section and shall be permitted to operate as a broker.

(d) Not later than thirty days from the first day of operating as a broker, a life insurance producer shall notify the commissioner that said producer is acting as a broker on a form prescribed by the commissioner, and shall pay a filing fee as specified in section 38a-11 of the 2008 supplement to the general statutes, as amended by this act. Such notification shall include an acknowledgement by the life insurance producer that said producer shall operate as a broker in accordance with this part.

(e) The insurer that issued the policy that is the subject of a life settlement contract shall not be responsible for any act or omission of a broker, provider or purchaser arising out of or in connection with the life settlement transaction, unless the insurer receives compensation for the placement of a life settlement contract from the broker, provider or purchaser in connection with such life settlement contract.

(f) A person licensed as an attorney, certified public accountant or financial planner accredited by a nationally recognized accreditation agency, who is retained to represent the owner and whose compensation is not paid directly or indirectly by the provider or purchaser, may negotiate life settlement contracts on behalf of the owner without being required to obtain a license as a broker.

(g) Any license issued for a provider or broker shall be in force only until the last day of March in each year, but may be renewed by the commissioner without formality other than proper application. The fees for such licenses shall be assessed annually, as provided in section 38a-11 of the 2008 supplement to the general statutes, as amended by this act. If such provider or broker fails to timely pay the renewal fee, such license shall be automatically revoked if the license fee is not

***Substitute House Bill No. 5512***

received by the commissioner not later than the fifth day after the commissioner sends, by first class mail, a written notice of nonrenewal to the principal office of the provider or broker, provided such notice shall only be mailed after said last day of March.

(h) The term of a provider license shall be equal to that of a domestic stock life insurance company and the term of a broker license shall be equal to that of an insurance producer license. Licenses requiring periodic renewal shall be renewed on their anniversary date upon payment of the renewal fee, as specified in subsection (b) of this section. Failure to pay the fees on or before the renewal date shall result in expiration of the license.

[(c)] (i) Upon the filing of an application and full payment of the license fee, the commissioner shall investigate the applicant and shall issue a license if the commissioner determines that:

(1) The applicant, if a provider, has provided a detailed plan of operation;

(2) The applicant is competent and trustworthy, and intends to act in good faith pursuant to the license applied for;

(3) The applicant has a good business reputation and adequate experience, training or education so as to be qualified in the business for which the license is applied; [for;]

(4) If the applicant is a corporation, partnership, limited liability company or other legal entity, the applicant [has provided a certificate of good standing from its state of domicile and, if such applicant is not domiciled in this state, a certificate of good standing from this state dated not more than fifteen days before or after the date of filing of the application] is formed or organized pursuant to the laws of this state or is a foreign legal entity authorized to do business in this state, or provides a certificate of good standing from its state of domicile; and

***Substitute House Bill No. 5512***

(5) [Neither the applicant, nor any partner, key manager, director, officer or majority stockholder of the applicant has been convicted of a felony.] The applicant has provided to the commissioner an antifraud plan that meets the requirements of subsection (i) of section 38a-465j, as amended by this act, and includes:

(A) A description of the procedures for detecting and investigating possible fraudulent acts and procedures for resolving material inconsistencies between medical records and insurance applications;

(B) A description of the procedures for reporting fraudulent insurance acts to the commissioner;

(C) A description of the plan for antifraud education and training of its underwriters and other personnel; and

(D) A written description or chart outlining the arrangement of the antifraud personnel responsible for the investigation and reporting of possible fraudulent insurance acts and investigating unresolved material inconsistencies between medical records and insurance applications.

[(d) Any license issued for a viatical settlement provider, a viatical settlement broker or a viatical settlement investment agent shall be in force only until the last day of March in each year, but may be renewed by the commissioner without formality other than proper application. The fees for such licenses shall be assessed annually as provided in section 38a-11. If such broker, provider or investment agent fails to timely pay the renewal fee, such license shall be automatically revoked if the license fee is not received by the commissioner not later than the fifth day after the commissioner sends by first class mail a written notice of nonrenewal to the principal office of the broker, provider or investment agent, provided such notice may only be mailed after said last day of March.]



***Substitute House Bill No. 5512***

~~[(e)]~~ (j) The applicant shall provide to the commissioner such information as the commissioner may require, on forms approved by the commissioner. The commissioner may, at any time, require the applicant to fully disclose the identity of ~~[all of]~~ its stockholders, except stockholders owning less than ten per cent of the shares of an applicant whose shares are publicly traded, partners, ~~[key management personnel, directors,]~~ officers ~~[, members]~~ and employees, and the commissioner may deny any application for a license if the commissioner determines that any partner, ~~[key manager, director,]~~ officer, employee or stockholder ~~[or member]~~ thereof who may materially influence the applicant's conduct fails to meet any of the standards set forth in sections 38a-465 to 38a-465q, inclusive, as amended by this act.

[(f)] A viatical settlement provider, viatical settlement broker or viatical settlement investment agent shall provide to the commissioner new or revised information about officers, stockholders holding ten per cent or more of the company's stock, partners, directors, members or designated employees not later than thirty days after the change in information.]

[(g)] ~~(k)~~ A ~~[viatical settlement provider license, a viatical settlement broker]~~ license ~~[or a viatical settlement investment agent license]~~ issued to a corporation, partnership, limited liability company or other legal entity authorizes all of such legal entity's ~~[stockholders, partners, key managers, directors]~~ members, officers and designated employees named in the application for such license, and any supplements to the application, to act ~~[on such entity's behalf as if such individuals are licensed]~~ as a licensee under such license. ~~[Such authorization shall terminate upon the expiration, suspension or revocation of the viatical settlement provider license, a viatical settlement broker license or a viatical settlement investment agent license.]~~

[(h)] The commissioner shall maintain a complete listing of all

***Substitute House Bill No. 5512***

viatical settlement providers, viatical settlement brokers and viatical settlement investment agents licensed in this state which shall be available to the general public for inspection.]

(l) The commissioner shall not issue any license to any nonresident applicant unless a written designation of an agent for service of process is filed and maintained with the commissioner or unless the applicant has filed with the commissioner the applicant's written irrevocable consent that any action against the applicant may be commenced against the applicant by service of process on the commissioner.

(m) Each licensee shall file with the commissioner on or before the first day of March of each year an annual statement containing such information as the commissioner may prescribe by regulation.

(n) A provider shall not use any person to perform the functions of a broker, as defined in this part, unless such person holds a current, valid license as a broker and as provided in this section.

(o) A broker shall not use any person to perform the functions of a provider, as defined in this part, unless such person holds a current, valid license as a provider and as provided in this section.

(p) A provider or broker shall provide to the commissioner new or revised information about officers, stockholders holding ten per cent or more of the company's stock, partners, directors, members or designated employees not later than thirty days after the change in information.

(q) An individual licensed as a broker shall complete, on a biennial basis, fifteen hours of training related to life settlements and life settlement transactions, except that a life insurance producer operating as a broker pursuant to this section shall not be subject to the requirements of this subsection. Any person failing to meet the

***Substitute House Bill No. 5512***

requirements of this subsection shall be subject to the penalties imposed by the commissioner.

Sec. 3. Section 38a-465b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2008*):

(a) The commissioner may deny a license application, or suspend, revoke or refuse to renew the license of any [viatical settlement provider, viatical settlement broker or viatical settlement investment agent] licensee if the commissioner determines that:

(1) There was a material misrepresentation in the license application or in other information submitted to the commissioner;

(2) The licensee [,] or any partner, [key manager,] member, director [,] or officer [or majority stockholder] of the licensee has been convicted of a felony or of any misdemeanor of which criminal fraud is an element, has been found guilty of fraudulent or dishonest practices, is subject to a final administrative action [to suspend or revoke a license granted by the chief insurance regulatory official of another state,] or is otherwise shown to be untrustworthy or incompetent to act as a [viatical settlement provider, viatical settlement broker or viatical settlement investment agent] licensee;

(3) The licensee, or any partner, member, officer or key management personnel has [wilfully] violated any of the provisions of this part;

(4) The [viatical settlement] provider demonstrates a pattern of unreasonably [low] withholding payments to [viators] policy owners;

(5) The licensee has [been found guilty of or has] pleaded guilty or nolo contendere to [,] any felony [,] or [to a] any misdemeanor involving criminal fraud or moral turpitude, regardless of whether a judgment or conviction has been entered by the court;

***Substitute House Bill No. 5512***

(6) The [viatical settlement] provider has entered into any [viatical] life settlement contract using a form that has not been approved pursuant to sections 38a-465 to 38a-465q, inclusive, as amended by this act;

(7) The [viatical settlement] provider has failed to honor contractual obligations set out in a [viatical] life settlement contract; [or a viatical settlement purchase agreement;]

(8) The licensee no longer meets the requirements for initial licensure; or

(9) The [viatical settlement] provider has assigned, transferred or pledged a [viatical] settled policy to a person other than a [viatical settlement] provider licensed in this state, a [viatical settlement] purchaser, an accredited investor [,] or a qualified institutional buyer, as defined in Rule 501 of Regulation D or Rule 144A, respectively, of the federal Securities Act of 1933, as amended from time to time, a financing entity, special purpose entity or related provider trust.

(b) If the commissioner denies a license application, or suspends, revokes or refuses to renew the license of a [viatical settlement provider, viatical settlement broker or viatical settlement investment agent] licensee, the applicant or licensee aggrieved by such denial, suspension, revocation or refusal to renew a license may appeal such action in accordance with chapter 54. Hearings may be held by the commissioner or by any person designated by the commissioner. Whenever an individual other than the commissioner acts as the hearing officer, the individual shall submit to the commissioner a memorandum of findings and recommendations upon which the commissioner may base a decision.

[(c) In addition to denying a license application, or suspending, revoking or refusing to renew a license, the commissioner may assess a

***Substitute House Bill No. 5512***

fine of up to one thousand dollars against a viatical settlement provider or viatical settlement investment agent for each wilful violation by the viatical settlement provider of any provision of this part or regulations adopted pursuant to this part.

(d) In addition to denying a license application, or suspending, revoking or refusing to renew a license, the commissioner may assess a fine of up to one thousand dollars against a viatical settlement broker if:

(1) Such viatical settlement broker has knowingly received a commission or other payment or benefit from a viatical settlement provider who is unlicensed in this state in connection with a viatical settlement contract entered into with a viator resident in this state;

(2) Such viatical settlement broker has defrauded, misled or mistreated viators; or

(3) Such viatical settlement broker has wilfully violated any provision of sections 38a-465 to 38a-465q, inclusive, or regulations adopted pursuant to said sections.]

Sec. 4. Section 38a-465c of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2008*):

(a) No person [may] shall use any form of [viatical] life settlement contract or disclosure statement in this state [when dealing with a viator] unless such form has been filed with and approved by the commissioner. The commissioner [may] shall disapprove a [viatical] life settlement contract form or disclosure statement [,] form if the commissioner finds any provision in said form is unreasonable, contrary to the interests of the public, fails to comply with the provisions of sections [38a-465 to 38a-465q, inclusive,] 38a-465f, 38a-465g, 38a-465n and subsection (b) of 38a-465k, as amended by this act, or is otherwise misleading or unfair to [viators or the public] the

***Substitute House Bill No. 5512***

owner. The commissioner may require the submission of advertising materials.

(b) No insurer shall, as a condition of responding to a request for verification of coverage or in connection with the transfer of a policy pursuant to a life settlement contract, require the owner, insured, provider or broker to sign any form, disclosure, consent, waiver or acknowledgment that has not been expressly approved by the commissioner for use in connection with life settlement contracts in this state.

(c) No insurer shall (1) prohibit a life insurance producer or broker from disclosing to a client the availability of a life settlement contract, or (2) include any provision in a life insurance policy that prohibits the lawful assignment of such policy.

Sec. 5. Section 38a-465d of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2008*):

(a) [Except as provided in subsection (b) of this section, on or before the last day of March of each year] On or before March first of each year, each [viatical settlement] provider shall file with the commissioner an annual statement containing such information as the commissioner may prescribe. The commissioner shall adopt regulations, in accordance with chapter 54, to prescribe the contents of such annual [statements] statement, which shall include, but not be limited to, for any policy settled within five years of policy issuance, the total number, aggregate face amount and life settlement proceeds of policies settled during the immediately preceding calendar year, a breakdown of the information by policy issue year, the names of the insurance companies whose policies have been settled and the brokers that have settled said policies. Such information shall be limited to only those transactions where the insured is a resident of this state and shall not include individual transaction data regarding the business of

***Substitute House Bill No. 5512***

life settlements or information where there is a reasonable basis to conclude such data or information could be used to identify the owner or the insured.

(b) Each provider that wilfully fails to file an annual statement as required in this section or wilfully fails to reply not later than thirty days to a written inquiry by the commissioner in connection therewith, shall, in addition to other penalties provided by this part, be subject upon due notice and opportunity to be heard to a penalty of up to two hundred fifty dollars per day of delay, not to exceed twenty-five thousand dollars in the aggregate, for each such failure.

[(b) Notwithstanding the provisions of subsection (a) of this section, no licensee may submit to the commissioner information which identifies any viator except with the express written permission of such viator or the viator's estate or representative.]

(c) Except as otherwise required or permitted by law, no person, including, but not limited to, [any viatical settlement] a provider, [viatical settlement investment agent, viatical settlement] broker, insurance company, insurance producer, information bureau, rating agency or company, or any other person with actual knowledge of an insured's identity, [may] shall disclose such identity or information where there is a reasonable basis to conclude such information could be used to identify the insured or the insured's financial or medical information to any other person unless such disclosure: (1) Is necessary to effect a [viatical] life settlement contract between the [viator] owner and a [viatical settlement] provider and the [viator] owner and insured [has] have provided prior written consent to such disclosure; (2) is provided in response to an investigation or examination by the commissioner or any other governmental office or agency or pursuant to the requirements of section 38a-465i, as amended by this act; (3) is necessary to [effect a viatical] effectuate the sale of life settlement [purchase agreement between the viatical settlement purchaser and a

***Substitute House Bill No. 5512***

viatical settlement provider and the viator and] contracts or interests therein as investments, provided the sale is conducted in accordance with applicable state and federal securities laws, and provided further the owner and the insured have both provided prior written consent to the disclosure; (4) is a term of or condition to the transfer of a policy by one [viatical settlement] provider to another [viatical settlement] provider, in which case the provider receiving such information shall comply with the confidentiality requirements specified in this subsection; (5) [is necessary to permit a financing entity, related provider trust or special purpose entity to finance the purchase of policies by a viatical settlement provider and the viator and insured have provided prior written consent to the disclosure; (6)] is necessary to allow the [viatical settlement] provider or [viatical settlement] broker or their authorized representatives to make contacts for the purpose of determining health status. For the purpose of this section, "authorized representative" does not include any person who has or may have a financial interest in the settlement contract other than a provider, licensed broker, financing entity, related provider trust or special purpose entity. Each provider or broker shall require its authorized representative to agree in writing to comply with the privacy provisions of this part; or [(7)] (6) is required to purchase stop loss coverage.

(d) [The commissioner shall not disclose the names of or other data identifying viators unless such disclosure is required by law.] Nonpublic personal information solicited or obtained in connection with a proposed or actual life settlement contract shall be subject to the provisions applicable to financial institutions under the federal Gramm-Leach-Bliley Act of 1999, P.L. 106-102, as amended from time to time, and all other applicable state and federal laws relating to confidentiality of nonpublic personal information.

Sec. 6. Section 38a-465e of the general statutes is repealed and the



**Substitute House Bill No. 5512**

following is substituted in lieu thereof (*Effective October 1, 2008*):

(a) When the commissioner deems it reasonably necessary to protect the interests of the public, the commissioner may examine the business and affairs of any licensee or applicant for a license. The commissioner may order any licensee or applicant to produce any records, books, files or other information reasonably necessary to ascertain whether such license or applicant is acting or acted in violation of the law or is otherwise contrary to the interests of the public. The licensee or applicant shall pay all expenses incurred by the commissioner in conducting any examination.

(b) [Licensees] Providers shall maintain records of each [viatical settlement] consummated transaction and life settlement contracts and, subject to the provisions of section 38a-465d, as amended by this act, such records shall be available, during reasonable business hours, to the commissioner for inspection for the [five-year] three-year period following the insured's death. [Subject to the provisions of said section, the commissioner shall also have the authority to order any licensee or applicant to produce any records, books, files or other information reasonably necessary to ascertain whether the licensee or applicant is acting or has acted in violation of any provision of sections 38a-465 to 38a-465m, inclusive, or of any regulations adopted pursuant to said sections. The licensee or applicant shall pay all expenses incurred by the commissioner in conducting any inspection or examination.]

(c) In lieu of an examination under this part of any foreign or alien licensee licensed in this state, the commissioner may accept an examination report on the licensee as prepared by the commissioner for the licensee's state of domicile or port-of-entry state.

(d) Names and individual identification data of owners and insureds shall be considered private and confidential information and shall not be disclosed by the commissioner unless required by law.

***Substitute House Bill No. 5512***

(e) (1) Upon determining that an examination should be conducted, the commissioner shall issue an examination warrant appointing one or more examiners to perform said examination and instructing them as to its scope. In conducting the examination, the examiner shall use methods common to the examination of any life settlement licensee and shall use guidelines and procedures set forth in an examiners' handbook adopted by a national organization.

(2) Each licensee or person from whom information is sought, its officers, directors and agents shall provide to the examiners timely, convenient and free access at all reasonable hours at its offices to all books, records, accounts, papers, documents, assets and computer or other recordings relating to the property, assets, business and affairs of the licensee being examined. The officers, directors, employees and agents of the licensee or person shall facilitate the examination and aid in the examination so far as it is in their power to do so. The refusal by a licensee or its officers, directors, employees or agents to submit to an examination or to comply with any reasonable written request of the commissioner shall be grounds for suspension, refusal or nonrenewal of any license or authority held by the licensee to engage in the life settlement business or other business subject to the commissioner's jurisdiction. Any proceedings for suspension, revocation or refusal of any license or authority shall be conducted pursuant to sections 38a-17 to 38a-19, inclusive.

(3) The commissioner shall have the power to issue subpoenas, administer oaths and examine under oath any person as to any matter pertinent to the examination. Upon the failure or refusal of a person to obey a subpoena, the commissioner may petition a court of competent jurisdiction, and upon proper showing, the court may enter an order compelling the witness to appear and testify or produce documentary evidence.

(4) When making an examination under this part, the commissioner

***Substitute House Bill No. 5512***

may retain attorneys, appraisers, independent actuaries, independent certified public accountants or other professionals and specialists as examiners, the reasonable cost of which shall be borne by the licensee that is the subject of the examination.

(5) Nothing contained in this section shall be construed to limit the commissioner's authority to terminate or suspend an examination in order to pursue other legal or regulatory action pursuant to the insurance laws of this state. Findings of fact and conclusions made pursuant to any examination shall be prima facie evidence in any legal or regulatory action.

(6) All final or preliminary examination reports, examiner or licensee work papers or other documents, or any other information discovered or developed during the course of an examination shall be kept confidential, pursuant to section 38a-69a.

(f) (1) Examination reports shall be comprised of only facts appearing upon the books, from the testimony of the licensee, its officers or agents or other persons examined concerning its affairs, and such conclusions and recommendations as the examiners find reasonably warranted from the facts.

(2) Not later than sixty days following completion of the examination, the examiner in charge shall file with the commissioner a verified written report of examination under oath. Upon receipt of the verified report, the commissioner shall transmit the report to the licensee examined, together with a notice that shall afford the licensee examined a reasonable opportunity of not more than thirty days to make a written submission or rebuttal with respect to any matters contained in the examination report and which shall become part of the report, or to request a hearing on any matter in dispute.

(3) In the event the commissioner determines that regulatory action

***Substitute House Bill No. 5512***

is appropriate as a result of an examination, the commissioner may initiate any proceedings or actions provided by law.

(g) Except as otherwise provided in this section, all examination reports, working papers, recorded information, documents and copies thereof produced by, obtained by or disclosed to the commissioner or any other person in the course of an examination made under this section, or in the course of analysis or investigation by the commissioner of the financial condition or market conduct of a licensee, shall be confidential by law and privileged and shall not be subject to section 1-210 of the 2008 supplement to the general statutes, subject to subpoena, or subject to discovery or be admissible in evidence in any private civil action. The commissioner is authorized to use the documents, materials or other information in the furtherance of any regulatory or legal action brought as part of the commissioner's official duties. The licensee being examined shall have access to all documents used to make the report.

(h) (1) An examiner shall not be appointed by the commissioner if the examiner, directly or indirectly, has a conflict of interest, is affiliated with the management of or owns a pecuniary interest in any person subject to examination under this section. This section shall not be construed to automatically preclude an examiner from being (A) an owner, (B) an insured in a life settlement contract or insurance policy, or (C) a beneficiary in an insurance policy that is proposed for a life settlement contract.

(2) Notwithstanding the requirements of this subsection, the commissioner may retain from time to time, on an individual basis, qualified actuaries, certified public accountants or other similar individuals who are independently practicing their professions, even though these persons may from time to time be similarly employed or retained by persons subject to examination under this section.

***Substitute House Bill No. 5512***

(i) (1) No cause of action shall arise or any liability be imposed against the commissioner, the commissioner's authorized representatives or any examiner appointed by the commissioner for any statements made or conduct performed in good faith while carrying out the provisions of this section.

(2) No cause of action shall arise or any liability be imposed against any person for communicating or delivering information or data to the commissioner or the commissioner's authorized representative or examiner pursuant to an examination made under this section, if such communication or delivery was performed in good faith and without fraudulent intent or the intent to deceive. This subdivision shall not abrogate or modify any common law or statutory privilege or immunity heretofore enjoyed by any person identified in subdivision (1) of this subsection.

(3) A person identified in subdivision (1) or (2) of this subsection shall be entitled to an award of attorney's fees and costs if such person is the prevailing party in a civil cause of action for libel, slander or any other relevant tort arising out of activities in carrying out the provisions of this section and the party bringing the action was not substantially justified in doing so. For the purpose of this section, a proceeding is "substantially justified" if it had a reasonable basis in law or fact at the time that it was initiated.

(j) The commissioner may investigate suspected fraudulent life settlement acts, as specified in section 38a-465j, as amended by this act, and persons engaged in the business of life settlements.

Sec. 7. Section 38a-465f of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2008*):

(a) [With each application for a viatical settlement, a viatical settlement] The provider [or viatical settlement] or broker shall

***Substitute House Bill No. 5512***

provide, [the viator with at least] in writing, in a separate document that is signed by the owner and provider, the following disclosures to the owner not later than [at the time the application for the viatical] the date the life settlement contract is signed by all parties. [Disclosure to a viator shall include distribution of a brochure developed or authorized by the commissioner describing the process of viatical settlements.] The disclosure document shall contain the following language: "All medical, financial or personal information solicited or obtained by a [viatical settlement] provider or [viatical settlement] broker about an insured, including the insured's identity or the identity of family members, a spouse or a significant other may be disclosed as necessary to effect the [viatical] life settlement contract between the [viator] owner and the [viatical settlement] provider. If you are asked to provide this information, you will be asked to consent to the disclosure. The information may be provided to someone who buys the policy or provides funds for the purchase. You may be asked to renew your permission to share information every two years." The [disclosure] written disclosures shall be provided in a separate document that is signed by the [viator] owner and the [viatical settlement] provider [or viatical settlement broker] and shall provide at least the following disclosures:

(1) [There] That there are possible alternatives to [viatical] life settlement contracts including, [any] but not limited to, accelerated death benefits [or policy loans] offered [under the viator's] by the issuer of the life insurance policy;

(2) [Some] That some or all of the proceeds of [the viatical] a life settlement contract may be taxable, [under federal income tax,] and assistance should be sought from a professional tax advisor;

(3) [Receipt] That receipt of the [viatical] life settlement contract proceeds may adversely affect the [viator's] recipient's eligibility for [Medicaid] public assistance or other government benefits or

***Substitute House Bill No. 5512***

entitlements, and advice should be obtained from the appropriate [governmental] agencies; [or advisors;]

[(4) The viatical settlement provider may assign or otherwise transfer its interests in the viaticated policy to a third party;]

[(5) The viator] (4) That the owner has the right to rescind a [viatical] life settlement contract for fifteen calendar days after the [receipt of the viatical settlement proceeds by the viator, as provided in subsection (c) of section 38a-465g] date such contract is executed by all parties and the owner has received the disclosures specified herein. Such rescission exercised by the owner shall be effective only if both notice of rescission is given to the provider and the owner repays all proceeds and any premiums, loans and loan interest paid by the provider within the rescission period. If the insured dies during the rescission period, the settlement contract shall be deemed to have been rescinded, subject to repayment by the owner or the owner's estate of all [viatical settlement] proceeds and any premiums, loans and loan interest to the [viatical settlement] provider; [or viatical settlement purchaser;]

[(6) Proceeds of the viatical] (5) That proceeds from the life settlement contract may be subject to the claims of [general] creditors;

[(7) Funds] (6) That proceeds will be sent to the [viator] owner within [two] three business days after the [viatical settlement] provider has received the insurer or group administrator's acknowledgment that ownership of the [viatical] policy or interest in the certificate has been transferred and the beneficiary has been designated [pursuant to sections 38a-465 to 38a-465q, inclusive] in accordance with the terms of the life settlement contract;

[(8) Entering] (7) That entering into [the viatical] a life settlement contract may cause other rights or benefits, including conversion rights

***Substitute House Bill No. 5512***

and waiver of premium benefits that may exist under the policy or certificate, to be forfeited by the [viator] owner, and [that] assistance should be sought from a financial advisor;

[(9) The] (8) That the insured may be contacted by either the [viatical settlement] provider or broker or its authorized representative for the purpose of determining the insured's health status or to verify the insured's address. This contact is limited to once every three months [following the date the viatical settlement proceeds are released to the viator] if the insured has a life expectancy of more than one year, and no more than once per month [following such date] if the insured has a life expectancy of one year or less;

(9) The amount and method of calculating the compensation paid or to be paid to the broker or to any other person acting for the owner in connection with the transaction, wherein the term compensation includes anything of value paid or given;

(10) The date by which the funds will be available to the owner and the transmitter of the funds;

(11) That the commissioner shall require delivery of a buyer's guide or a similar consumer advisory package in the form prescribed by the commissioner to owners during the solicitation process;

(12) That the commissioner shall require providers and brokers to print separate, signed fraud warnings on their applications and on their life settlement contracts as follows: "Any person who knowingly presents false information in an application for insurance or life settlement contract is guilty of a crime and may be subject to fines and confinement in prison.";

(13) The affiliation, if any, between the provider and the issuer of the insurance policy to be settled;



***Substitute House Bill No. 5512***

(14) That a broker represents the owner exclusively, and not the insurer, the provider or any other person, and owes a fiduciary duty to the owner, including a duty to act according to the owner's instructions and in the best interest of the owner;

(15) The name, address and telephone number of the provider;

(16) The name, business address and telephone number of the independent third-party escrow agent, and the fact that the owner may inspect or receive copies of the relevant escrow or trust agreements or documents; and

(17) That a change of ownership could limit the insured's ability to purchase future insurance on the insured's life because there is a limit to how much coverage insurers will issue on one life.

[(b) A viatical settlement provider shall provide the viator with at least the following disclosures not later than the date the viatical settlement contract is signed by all parties. The disclosures shall be conspicuously displayed in the viatical settlement contract or in a separate document signed by the viator and the viatical settlement provider or viatical settlement broker, and shall provide at least the following disclosures:

(1) The affiliation, if any, between the viatical settlement provider and the issuer of the insurance policy to be viaticated;

(2) The name, address and telephone number of the viatical settlement provider;

(3) If an insurance policy to be viaticated has been issued as a joint policy or involves family riders or any coverage of a life other than the insured under the policy to be viaticated, the viator shall be informed of the possible loss of coverage on the other lives under the policy and shall be advised to consult with the viator's insurance producer or the

***Substitute House Bill No. 5512***

insurer issuing the policy for advice on the proposed viatical settlement;

(4) The dollar amount of the current death benefit payable to the viatical settlement provider under the policy or certificate. If known, the viatical settlement provider shall also disclose the availability of any additional guaranteed insurance benefits, the dollar amount of any accidental death and dismemberment benefits under the policy or certificate and the viatical settlement provider's interest in those benefits;

(5) The name, business address, and telephone number of the independent third party escrow agent, and the fact that the viator or owner may inspect or receive copies of the relevant escrow or trust agreements or documents.

(c) If the viatical settlement provider transfers ownership or changes the beneficiary of the insurance policy, the viatical settlement provider shall communicate the change in ownership or beneficiary to the insured not later than twenty days after the change.

(d) A viatical settlement provider or its viatical settlement investment agent shall provide the viatical settlement purchaser with at least the following disclosures prior to the date the viatical settlement purchase agreement is signed by all parties. The disclosures shall be conspicuously displayed in any viatical settlement purchase agreement or in a separate document signed by the viatical settlement purchaser and viatical settlement provider or viatical settlement investment agent and shall provide at least the following disclosures:

(1) The purchaser will receive no returns, including, but not limited to, dividends and interest, until the insured dies;

(2) The actual annual rate of return on a viatical settlement contract is dependent upon an accurate projection of the insured's life

***Substitute House Bill No. 5512***

expectancy, and the actual date of the insured's death. An annual guaranteed rate of return is not determinable;

(3) The viaticated life insurance contract should not be considered a liquid purchase because it is impossible to predict the exact timing of the contract's maturity and the funds may not be available until the death of the insured. There is no established secondary market for resale of these contracts by the purchaser;

(4) The purchaser may lose all benefits or may receive substantially reduced benefits if the insurer goes out of business during the term of the viatical investment;

(5) The purchaser is responsible for payment of the insurance premium or other costs related to the policy if required by the terms of the viatical settlement purchase agreement. Such payments may reduce the purchaser's return. If a party other than the purchaser is responsible for the payment, the name and address of that party shall be disclosed;

(6) The purchaser is responsible for payment of the insurance premiums or other costs related to the policy if the insured returns to good health. The amount of such premiums shall be disclosed, if applicable;

(7) The name and address of any person providing escrow services and the person's relationship to the broker;

(8) The amount of any trust fees or other expenses to be charged to the viatical settlement purchaser;

(9) Whether the purchaser is entitled to a refund of all or part of the purchaser's investment under the viatical settlement contract if the policy is later determined to be null and void;

***Substitute House Bill No. 5512***

(10) That group policies may contain limitations or caps in the conversion rights, additional premiums may be required to be paid if the policy is converted, the party responsible for the payment of the additional premiums shall be named and, if a group policy is terminated and replaced by another group policy, that there may be no right to convert the original coverage;

(11) The risks associated with policy contestability, including, but not limited to, the risk that the purchaser will have no claim or only a partial claim to death benefits if the insurer rescinds the policy within the contestability period;

(12) Whether the purchaser will be the owner of the policy in addition to being the beneficiary, and if the purchaser is the beneficiary only and not also the owner, the special risks associated with that status, including, but not limited to, the risk that the beneficiary may be changed or the premium may not be paid;

(13) (A) The experience and qualifications of the person who determines the life expectancy of the insured, such as in-house staff, independent physicians and specialty firms that weigh medical and actuarial data; (B) the information the determination of life expectancy is based on; and (C) the relationship of the person making the determination to the viatical settlement provider, if any;

(14) Disclosure to an investor shall include distribution of a brochure, developed or authorized by the commissioner, describing the process of investment in viatical settlements.

(e) A viatical settlement provider or its viatical settlement investment agent shall provide the viatical settlement purchaser with at least the following disclosures not later than at the time of the assignment, transfer or sale of all or a portion of an insurance policy. The disclosures shall be contained in a document signed by the viatical

***Substitute House Bill No. 5512***

settlement purchaser and viatical settlement provider or viatical settlement investment agent and shall provide at least the following disclosures:

(1) All life expectancy certifications obtained by the provider in the process of determining the price paid to the viator;

(2) Whether premium payments or other costs related to the policy have been escrowed. If such costs have been escrowed, disclosure is required regarding the date upon which the escrowed funds will be depleted and whether the purchaser will be responsible for payment of premiums after that date, and, if so, the amount of the premiums;

(3) Whether premium payments or other costs related to the policy have been waived. If such costs have been waived, disclosure is required regarding whether the investor will be responsible for payment of the premiums if the insurer that wrote the policy terminates the waiver after purchase and the amount of those premiums;

(4) The type of policy offered or sold, such as, whole life, term life, universal life or a group policy certificate, any additional benefits contained in the policy, and the current status of the policy;

(5) If the policy is term insurance, the special risks associated with term insurance, including, but not limited to, the purchaser's responsibility for additional premiums if the viator continues the term policy at the end of the current term;

(6) Whether the policy is contestable;

(7) Whether the insurer that wrote the policy has any additional rights that could negatively affect or extinguish the purchaser's rights under the viatical settlement contract, what the rights are, and under what conditions the rights are activated;

***Substitute House Bill No. 5512***

(8) The name and address of the person responsible for monitoring the insured's condition, a description of how often the monitoring of the insured's condition is done, how the date of death is determined, and how and when this information will be transmitted to the purchaser.

(f) The viatical settlement purchase agreement may be voided by the purchaser at any time before the end of the third day after the disclosures required by subsections (d) and (e) of this section are received by the purchaser.]

(b) The written disclosures shall be conspicuously displayed in any life settlement contract furnished to an owner by a provider, including any affiliations or contractual arrangements between the provider and the broker. Failure to provide the disclosures or rights set forth in this section shall be deemed an unfair practice pursuant to section 38a-816 of the general statutes.

(c) A broker shall provide the owner and the provider with at least the following disclosures not later than the date the life settlement contract is signed by all parties. The disclosures shall be conspicuously displayed in the life settlement contract or in a separate document signed by the owner and provide the following information:

(1) The name, business address and telephone number of the broker;

(2) A full, complete and accurate description of all the offers, counter-offers, acceptances and rejections relating to the proposed life settlement contract;

(3) A written disclosure of any affiliations or contractual arrangements between the broker and any person making an offer in connection with the proposed life settlement contract;

(4) The name of each broker who receives compensation and the

***Substitute House Bill No. 5512***

amount of compensation received by said broker, which compensation includes anything of value paid or given to the broker in connection with the life settlement contract;

(5) A complete reconciliation of the gross offer or bid by the provider to the net amount of proceeds or value to be received by the owner. For the purpose of this section, "gross offer" or "bid" means the total amount or value offered by the provider for the purchase of one or more life insurance policies, inclusive of commissions and fees; and

(6) That the failure to provide the disclosures or rights described in this section shall be deemed an unfair practice in violation of section 38a-815.

Sec. 8. Section 38a-465g of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2008*):

(a) [(1)] Before entering into a [viatical] life settlement contract with any owner of a policy wherein the insured is terminally ill or chronically ill, a [viatical settlement] provider shall obtain:

[(A)] (1) If the [viator] owner is the [individual whose life is] insured, [by the viator's life insurance policy or certificate,] a written statement from a licensed attending physician that the [viator] owner is of sound mind and under no constraint or undue influence to enter into [the viatical] the settlement contract; and

[(B)] (2) A [witnessed] document [executed by the insured person] in which the [person] insured consents to the release of the [person's] insured's medical records to a [viatical settlement] provider, [viatical settlement] broker [and] or [the] insurance [company that issued the life insurance policy covering the life of the insured. The consent for the release of medical records shall only be obtained for the insurance company if the life insurance policy covering the insured was issued within forty-eight months of the date of the viator's application for the

***Substitute House Bill No. 5512***

viatical settlement contract] producer, and, if the policy was issued less than two years from the date of application for a settlement contract, to the insurance company that issued the policy.

[(2) Not later than twenty days after a viator executes the documents necessary to transfer any rights under a policy or not later than twenty days after entering any agreement, option, promise or any other form of understanding, expressed or implied, to viaticate the policy, the viatical settlement provider shall give written notice to the insurer that issued the policy that the policy has or will become a viaticated policy. The notice shall be accompanied by the documents required by subdivision (3) of this subsection.

(3) The viatical settlement provider shall deliver a copy of the medical release required under subparagraph (B) of subdivision (1) of this subsection, a copy of the viator's application for the viatical settlement contract, the notice required under subdivision (2) of this subsection and a request for verification of coverage to the insurer that issued the policy that is the subject of the viatical transaction. The commissioner may adopt regulations, in accordance with chapter 54, to prescribe the form or forms to be used for verification of coverage.]

[(4)] (b) The insurer shall respond to a request for verification of coverage submitted by a provider, broker or life insurance producer on [an approved] a form [by a viatical settlement provider] approved by the commissioner not later than thirty calendar days after the date the request was received. [and] The insurer shall complete and issue the verification of coverage or indicate in which respects it is unable to respond. In its response, the insurer shall indicate whether, based on the medical evidence and documents provided, the insurer intends [, at the time of the response,] to pursue an investigation regarding the validity of the policy.

[(5)] (c) Prior to or at the time of execution of the [viatical]



***Substitute House Bill No. 5512***

settlement contract, the [viatical settlement] provider shall obtain a witnessed document in which the [viator] owner consents to the [viatical] settlement contract, represents that the [viator] owner has a full and complete understanding of the [viatical] settlement contract, that the [viator] owner has a full and complete understanding of the benefits of the [life insurance] policy, acknowledges that the [viator] owner is entering into the [viatical] settlement contract freely and voluntarily and, for persons with a terminal or chronic illness or condition, acknowledges that the insured has a terminal or chronic illness or condition and that the terminal or chronic illness or condition was diagnosed after the life insurance policy was issued.

[(6)] (d) If a [viatical settlement] broker or life insurance producer performs any of the activities required of the [viatical settlement] provider under this section, the provider shall be deemed to have fulfilled the requirements of this section.

(e) If a broker performs the verification of coverage activities required of the provider, the provider shall be deemed to have fulfilled the requirements of subsection (a) of section 38a-465f, as amended by this act.

(f) The insurer shall not unreasonably delay effecting change of ownership or beneficiary with any life settlement contract lawfully entered into in this state or with a resident of this state.

(g) Not later than twenty days after an owner executes the life settlement contract, the provider shall give written notice to the insurer that issued the policy that the policy has become subject to a life settlement contract. The notice shall be accompanied by the documents set forth in subsection (c) of section 38a-465h, as amended by this act.

[(b)] (h) All medical information solicited or obtained by any person licensed pursuant to this part shall be subject to applicable provisions

**Substitute House Bill No. 5512**

of law relating to the confidentiality of medical information.

[(c)] (i) Each [viatical] life settlement contract entered into in this state [or entered into with residents of this state] shall provide that the [viator] owner may rescind the [viatical settlement] contract [within] not later than fifteen days from the [viator's receipt of the viatical settlement proceeds] date it is executed by all parties thereto. Such rescission exercised by the owner shall be effective only if both notice of rescission is [delivered by the viator] given to the [viatical settlement] provider and [a full return of funds to the viatical settlement provider is made before the expiration of the applicable rescission period] the owner repays all proceeds and any premiums, loans and loan interest paid by the provider within the rescission period. A failure to provide written notice of the right of rescission shall toll the period of such right until thirty days after the written notice of the right of rescission has been given. If the insured dies during the rescission period, the [viatical settlement] contract shall be deemed to have been rescinded, subject to repayment [to the viatical settlement provider or viatical settlement purchaser] by the owner or the owner's estate of all [viatical settlement] proceeds [,] and any premiums, loans and loan interest [that has been paid by] to the [viatical settlement] provider, [or viatical settlement purchaser.]

[(d)] The viatical settlement purchaser shall have the right to rescind a viatical settlement contract until the end of the third day after the disclosures required by subsections (d) and (e) of section 38a-465f are received by the purchaser.

(e) The viatical settlement provider shall instruct the viator to send the executed documents required to effect the change in ownership, assignment or change in beneficiary directly to the independent escrow agent.]

(j) Not later than [two] three business days after the date the [escrow

***Substitute House Bill No. 5512***

agent receives the document, or not later than two business days after the date the viatical settlement] provider receives the documents [if the viator erroneously provides the documents directly to the provider] from the owner to effect the transfer of the insurance policy, the provider shall pay or transfer the proceeds of the [viatical] settlement into an escrow or trust account [maintained] managed by a trustee or escrow agent in a state or federally-chartered financial institution whose deposits are insured by the Federal Deposit Insurance Corporation. [Upon payment of the settlement proceeds into the escrow account, the] Not later than three business days after receiving acknowledgment of the transfer of the insurance policy from the issuer of the policy, said trustee or escrow agent shall [deliver the original change in ownership, assignment or change in beneficiary forms to the viatical settlement provider or related provider trust. Upon the escrow agent's receipt of the acknowledgment of the properly completed transfer of ownership, assignment or designation of beneficiary from the insurance company, the escrow agent shall] pay the settlement proceeds to the [viator] owner.

[(f)] (k) Failure to tender [consideration to the viator for] the [viatical] life settlement contract proceeds to the owner within the time set forth in section 38a-465f, as amended by this act, shall render the viatical settlement contract voidable by the [viator] owner for lack of consideration until the time such consideration is tendered to, and accepted by, the [viator] owner.

[(g)] No viatical settlement broker shall receive from a viatical settlement provider a fee, commission or other valuable consideration for services rendered to or in connection with viators resident in this state unless such viatical settlement provider is licensed in this state.

(h) Viatical settlement proceeds received by a viator from a licensed viatical settlement provider pursuant to a viatical settlement contract shall not be subject to state taxation under title 12.

***Substitute House Bill No. 5512***

(i) Following the consummation of a viatical settlement, no person may initiate contact with the insured under the viaticated policy for purposes of determining the insured's health status (1) more than one time during each consecutive three-month period following the date the viatical settlement proceeds are released to the viator if the insured has an estimated life expectancy of more than one year from such date, or (2) more than one time during each month following such date if the insured has an estimated life expectancy of one year or less. The viatical settlement provider shall notify the viator of said limitations on contacts with the insured prior to the consummation of the viatical settlement in accordance with section 38a-465f. The limitations set forth in this subsection shall not apply to any contacts with an insured under a viaticated policy for reasons other than determining the insured's health status. Viatical settlement providers and viatical settlement brokers shall be responsible for the actions of their authorized representatives.

(j) An insured shall have the right, where permitted under the life insurance policy or certificate, to assign, transfer, sell or bequest the net death benefit payable under or ownership of a life insurance policy or certificate for any remaining portion of such coverage. An insured shall also have the right, where permitted under the life insurance policy or certificate, to assign, transfer, sell or bequest the net death benefit payable under or ownership of a life insurance policy or certificate at any time such coverage is on disability waiver of premium.

(k) Unless otherwise agreed to in writing by the viator and the viatical settlement provider, the amount payable to a viatical settlement provider upon the insured's death shall be the amount (1) which would have been payable to the viatical settlement provider if the insured had died on the first day following the date of the viatical settlement contract, less (2) (A) any double or additional indemnity

***Substitute House Bill No. 5512***

amount, if any, payable under the viaticated policy if the insured's death is accidental, and (B) all other amounts required to be deducted from the death benefit. Any other additional amounts shall remain payable to the beneficiary last named by the viator prior to entering into the viatical settlement contract, or to such other beneficiary, other than the viatical settlement provider, as the viator may designate after entering into the viatical settlement contract, or in the absence of a designation, to the estate of the viator.]

(l) Any fee paid by a provider, party, individual or an owner to a broker in exchange for services provided to the owner pertaining to a life settlement contract shall be computed as a percentage of the offer obtained and not as a percentage of the face value of the policy. Nothing in this section shall be construed to prohibit a broker from reducing such broker's fee below such percentage.

(m) Each broker shall disclose to the owner anything of value paid or given to such broker in connection with a life settlement contract concerning the owner.

(n) No person at anytime prior to, or at the time of, the application for or issuance of a policy, or during a two-year period commencing with the date of issuance of the policy, shall enter into a life settlement contract regardless of the date the compensation is to be provided and regardless of the date the assignment, transfer, sale, devise, bequest or surrender of the policy is to occur. This prohibition shall not apply if the owner certifies to the provider that:

(1) The policy was issued upon the owner's exercise of conversion rights arising out of a group or individual policy, provided the total of the time covered under the conversion policy plus the time covered under the prior policy is not less than twenty-four months. The time covered under a group policy must be calculated without regard to a change in insurance carriers, provided the coverage has been

***Substitute House Bill No. 5512***

continuous and under the same group sponsorship; or

(2) The owner submits independent evidence to the provider that one or more of the following conditions have been met within said two-year period: (A) The owner or insured is terminally ill or chronically ill; (B) the owner or insured disposes of the owner or insured's ownership interests in a closely held corporation, pursuant to the terms of a buyout or other similar agreement in effect at the time the insurance policy was initially issued; (C) the owner's spouse dies; (D) the owner divorces his or her spouse; (E) the owner retires from full-time employment; (F) the owner becomes physically or mentally disabled and a physician determines that the disability prevents the owner from maintaining full-time employment; or (G) a final order, judgment or decree is entered by a court of competent jurisdiction on the application of a creditor of the owner, adjudicating the owner bankrupt or insolvent, or approving a petition seeking reorganization of the owner or appointing a receiver, trustee or liquidator to all or a substantial part of the owner's assets.

(o) Copies of the independent evidence required by subdivision (2) of subsection (n) of this section shall be submitted to the insurer when the provider submits a request to the insurer for verification of coverage. The copies shall be accompanied by a letter of attestation from the provider that the copies are true and correct copies of the documents received by the provider. Nothing in this section shall prohibit an insurer from exercising its right to contest the validity of any policy.

(p) If, at the time the provider submits a request to the insurer to effect the transfer of the policy to the provider, the provider submits a copy of independent evidence of subparagraph (A) of subdivision (2) of subsection (n) of this section, such copy shall be deemed to establish that the settlement contract satisfies the requirements of this section.

***Substitute House Bill No. 5512***

Sec. 9. Section 38a-465h of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2008*):

[(a) No person who invests in a viaticated policy, including, but not limited to, a participant in a financing transaction, may influence the treatment of the insured's illness.

(b) (1) No life insurance policy or certificate issued or delivered in this state which permits assignment may in any way restrict the owner of the policy or holder of the certificate from making an assignment of rights under said contract or certificate as a gift without consideration.

(2) Any provision in any life insurance policy or certificate which places restrictions on assignments described in subdivision (1) of this subsection may be waived with written consent from the administrator or insurer of such policy or certificate.

(c) The assignee of an individual life insurance policy or of rights under a certificate shall have all rights at law or in equity held by the assignor under such policy or certificate, including, but not limited to, the right to: (1) Convert the coverage evidenced by the certificate to an individual policy; (2) receive timely notice of such right to convert; (3) take such other action as may be necessary under the policy or certificate in order to preserve the value of the assigned coverage; (4) receive information concerning the coverage under the policy or certificate; (5) receive notice of a lapse or discontinuation of coverage; (6) exercise any option relating to the assigned coverage during an open enrollment period; and (7) all such other rights and privileges vested in the assignor under the terms of the policy or certificate.

(d) If a certificate is assigned pursuant to a viatical settlement contract and the administrator of the group life insurance policy to which the certificate relates fails to give notice to the viatical settlement provider that the insured is no longer a covered person under the

***Substitute House Bill No. 5512***

group life insurance policy or of the right to convert the certificate to an individual life insurance policy, the period of time during which the viatical settlement provider may apply for conversion under the terms of the group life insurance policy shall begin from the date such notice is received by the viatical settlement provider.

(e) If a certificate acquired pursuant to a viatical settlement contract is converted to an individual life insurance policy, where permitted under the life insurance policy or certificate and when the face amount does not exceed the original group coverage, for the purposes of measuring the period of incontestability or determining application of the suicide exclusion, the date of issue of the policy shall be the first day coverage was provided under the group life insurance policy to which the certificate related and not the date of issue of the individual life insurance policy issued following conversion, provided the information relevant to the determination of eligibility of conversion can be contested.]

(a) Without limiting the ability of an insurer to assess the insurability of a policy applicant and in addition to other questions an insurance company may lawfully pose to a life insurance applicant, an insurance company may inquire in the application for life insurance whether the proposed owner intends to pay premiums with the assistance of financing from a lender that will use the policy as collateral to support the financing.

(b) If, as described in subdivision (11) of section 38a-465, as amended by this act, the loan provides funds that can be used for a purpose other than paying for the premiums, costs and expenses associated with obtaining and maintaining the life insurance policy and loan, the application shall be rejected as a violation of section 38a-465i, as amended by this act.

(c) If the financing does not violate section 38a-465i, as amended by



***Substitute House Bill No. 5512***

this act, in this manner, the insurance company:

(1) May make disclosures including, but not limited to, the following, to the applicant and the insured, in the application or an amendment to the application completed not later than the delivery of the policy: "If you have entered into a loan arrangement where the policy is used as collateral and the policy does change ownership at some point in the future in satisfaction of the loan, the following may be true: (A) A change of ownership could lead to a stranger owning an interest in the insured's life; (B) a change of ownership could limit your ability to purchase future insurance on the insured's life because there is a limit to how much coverage insurers will issue on one life; (C) should there be a change of ownership and you wish to obtain more insurance coverage on the insured's life in the future, the insured's higher issue age, a change in health status or other factors may reduce the ability to obtain coverage or may result in significantly higher premiums; and (D) you should consult a professional advisor, since a change in ownership in satisfaction of the loan may result in tax consequences to the owner, depending on the structure of the loan.";  
and

(2) May require the applicant or the insured to certify that:

(A) Such applicant or insured has not entered into any agreement or arrangement providing for the future sale of such life insurance policy;

(B) The loan arrangement for this policy provides funds sufficient to for partial or full payment of the premiums, costs and expenses associated with obtaining and maintaining such life insurance policy, and that such applicant or insured has not entered into any agreement by which such applicant or insured will receive consideration in exchange for procuring such policy; and

(C) The borrower has an insurable interest in the insured.

**Substitute House Bill No. 5512**

Sec. 10. Section 38a-465i of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2008*):

[(a) Each life insurance company licensed in this state shall promptly respond to reasonable requests for policy or certificate information following the receipt of the following documents by the insurer or its agent:

(1) An instruction executed by the viator requiring the insurer to release specified information regarding the policy or certificate to a named viatical settlement provider or viatical settlement broker; and

(2) A written request for such information from the named viatical settlement provider or viatical settlement broker.

(b) Requests for the following items are deemed to be reasonable: (1) Ownership of and death benefits payable under the viaticated policy; (2) premium information on the viaticated policy; (3) liens on and assignments and additional benefits of the viaticated policy; (4) waiver of premium of the viaticated policy; and (5) ownership of and assignment provisions under the viaticated policy. The commissioner may adopt regulations, in accordance with chapter 54, to identify additional requests for information which shall also be deemed reasonable.

(c) An insurer or third party administrator of a group life insurance policy shall promptly issue an individual conversion policy if the conversion is being requested for the purpose of entering into a viatical settlement contract.

(d) Nothing in this section shall be construed to prohibit a policy owner or certificate holder, pursuant to the provisions of the policy or certificate, from assigning rights or benefits under the policy or certificate to a viatical settlement provider or from converting such coverage to an individual life insurance policy.

***Substitute House Bill No. 5512***

(e) No person may enter into a viatical settlement contract within a two-year period from the date of issuance of an insurance policy or certificate unless the viator certifies to the viatical settlement provider that one or more of the following conditions have been met within the two-year period:

(1) The policy was issued upon the viator's exercise of conversion rights arising out of a group or individual policy, provided the total of the time covered under the conversion policy plus the time covered under the prior policy is at least twenty-four months. The time covered under a group policy shall be calculated without regard to any change in insurance carriers, provided the coverage has been continuous and under the same group sponsorship;

(2) (A) The viator submits independent evidence to the viatical settlement provider that one or more of the following conditions have been met within the two-year period:

(i) The viator or insured is terminally or chronically ill; or

(ii) The viator disposes of the viator's entire ownership interests in a closely held corporation pursuant to the terms of a buyout or other similar agreement in effect at the time the insurance policy was initially issued;

(B) Copies of the independent evidence described in subparagraph (A) of this subdivision and documents required by subsection (a) of section 38a-465g shall be submitted to the insurer when the viatical settlement provider submits a request to the insurer for verification of coverage. The copies shall be accompanied by a letter from the viatical settlement provider that the copies are true and correct copies of the documents received by the viatical settlement provider.

(f) If the viatical settlement provider submits to the insurer a copy of the owner or insured's certification described in subdivision (2) of

***Substitute House Bill No. 5512***

subsection (e) of this section when the provider submits a request to the insurer to effect the transfer of the policy or certificate to the viatical settlement provider, the copy shall be deemed to conclusively establish that the viatical settlement contract satisfies the requirements of this section and the insurer shall timely respond to the request.]

(a) It shall be a violation of this part for any person to:

(1) Enter into a life settlement contract if such person knows or reasonably should have known that the life insurance policy was obtained by means of a false, deceptive or misleading application for such policy;

(2) Engage in any transaction, practice or course of business if such person knows or reasonably should have known that the intent was to avoid the notice requirements of this section;

(3) Engage in any fraudulent act or practice in connection with any transaction relating to any settlement involving an owner who is a resident of this state;

(4) Issue, solicit, market or otherwise promote the purchase of an insurance policy for the purpose of or with the emphasis on settling the policy;

(5) Receive, if providing premium financing, any proceeds, fees or other consideration from the policy or policy owner that are in addition to the amounts required to pay principal, interest or any costs or expenses, which are reasonable in type and amount, incurred by the lender or borrower in connection with such premium finance agreement, except in the event of a default, provided neither default on such loan or the transfer of the policy, in connection with such default, is pursuant to an agreement or understanding with any other person for the purpose of evading regulation under this part. Any payments, charges, fees or other amounts received by a person or entity

***Substitute House Bill No. 5512***

providing premium financing in violation of this subdivision shall be remitted to the original owner of the policy or to such owner's estate if said original owner is not living at the time of the determination of the overpayment;

(6) With respect to any settlement contract or insurance policy and a broker, to knowingly solicit an offer from, effectuate a life settlement contract with or make a sale to any provider, financing entity or related provider trust that is controlling, controlled by or under common control with such broker, unless such relationship is disclosed to the owner;

(7) With respect to any life settlement contract or insurance policy and a provider, to knowingly enter into a life settlement contract with an owner if, in connection with such life settlement contract, anything of value will be paid to a broker that is controlling, controlled by or under common control with such provider, financing entity or related provider trust that is involved in such settlement contract, unless such relationship is disclosed to the owner;

(8) With respect to a provider, to enter into a life settlement contract unless the life settlement promotional, advertising and marketing materials, as may be prescribed by regulation, have been filed with the commissioner. In no event shall any marketing materials expressly reference that the insurance is free for any period of time. The inclusion of any reference in the marketing materials that would cause an owner to reasonably believe the insurance is free for any period of time shall be considered a violation of this part; or

(9) With respect to any life insurance producer, insurance company, broker or provider, to make any statement or representation to the applicant or policyholder in connection with the sale or financing of a life insurance policy to the effect that the insurance is free or without cost to the policyholder for any period of time unless so provided in

**Substitute House Bill No. 5512**

the policy.

(b) A violation of this section shall be deemed a fraudulent life settlement act, as specified in section 38a-465j, as amended by this act.

Sec. 11. Section 38a-465j of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2008*):

[(a) Nothing in sections 38a-465 to 38a-465m, inclusive, shall be construed to require a financing entity to obtain a viatical settlement provider license or viatical settlement broker license pursuant to section 38a-465a.

(b) Nothing in sections 38a-465 to 38a-465m, inclusive, shall be construed to restrict any person from receiving a fee, commission or other valuable consideration for services rendered in connection with any financing transaction.

(c) Nothing in sections 38a-465 to 38a-465m, inclusive, shall be construed to require notice to the commissioner of, or restrict an insurance company from investing or participating in or purchasing any securities issued in, any financing transaction.]

(a) (1) A person shall not commit a fraudulent life settlement act.

(2) "Fraudulent life settlement act" includes, but is not limited to:

(A) Acts or omissions committed by any person who, knowingly and with intent to defraud, for the purpose of depriving another of property or for pecuniary gain, commits or permits its employees or its agents to engage in acts including, but not limited to:

(i) Presenting, causing to be presented or preparing with knowledge and belief that it will be presented to or by a provider, premium finance lender, broker, insurer, insurance producer or any other person, false material information, or concealing material information,

***Substitute House Bill No. 5512***

as part of, in support of, or concerning a fact material to one or more of the following: (I) An application for the issuance of a life settlement contract or insurance policy; (II) the underwriting of a life settlement contract or insurance policy; (III) a claim for payment or benefit pursuant to a life settlement contract or insurance policy; (IV) premiums paid on an insurance policy; (V) payments and changes in ownership or beneficiary made in accordance with the terms of a life settlement contract or insurance policy; (VI) the reinstatement or conversion of an insurance policy; (VII) in the solicitation, offer to enter into, or effectuation of a life settlement contract or insurance policy; (VIII) the issuance of written evidence of a life settlement contract or insurance policy; (IX) any application for or the existence of or any payments related to a loan secured directly or indirectly by any interest in a life insurance policy; or (X) enter into any practice or plan that involves stranger-originated life insurance;

(ii) Where the request for disclosure has been asked for by the insurer, failing to disclose to the insurer that the prospective insured has undergone a life expectancy evaluation by any person or entity other than the insurer or its authorized representative in connection with the issuance of the policy;

(iii) Employing any device, scheme or artifice to defraud in the business of life settlements; or

(iv) In the solicitation, application or issuance of a policy, employing any device, scheme or artifice in violation of state insurable interest laws;

(B) In the furtherance of a fraud or to prevent the detection of a fraud any person commits or permits its employees or its agents to:

(i) Remove, conceal, alter, destroy or sequester from the commissioner the assets or records of a licensee or other person

***Substitute House Bill No. 5512***

engaged in the business of life settlements;

(ii) Misrepresent or conceal the financial condition of a licensee, financing entity, insurer or other person;

(iii) Transact the business of life settlements in violation of laws requiring a license, certificate of authority or other legal authority for the transaction of the business of life settlements;

(iv) File with the commissioner a document containing false information or otherwise concealing information about a material fact from the commissioner;

(v) Engage in embezzlement, theft, misappropriation or conversion of moneys, funds, premiums, credits or other property of a provider, insurer, insured, owner, insurance, policy owner or any other person engaged in the business of life settlements or insurance;

(vi) Knowingly and with intent to defraud, enter into, broker or otherwise deal in a life settlement contract, the subject of which is a life insurance policy that was obtained by presenting false information concerning any fact material to the policy or by concealing, for the purpose of misleading another, information concerning any fact material to the policy, where the owner or the owner's agent intended to defraud the policy's issuer;

(vii) Attempt to commit, assist, aid or abet in the commission of, or conspiracy to commit the acts or omissions specified in this subsection;  
or

(viii) Misrepresent the state of residence of an owner to be a state or jurisdiction that does not have a law substantially similar to this part for the purpose of evading or avoiding the provisions of this part.

(b) A person shall not knowingly or intentionally interfere with the



***Substitute House Bill No. 5512***

enforcement of the provisions of this part or investigations or suspected or actual violations of this part.

(c) A person in the business of life settlements shall not knowingly or intentionally permit any person convicted of a felony involving dishonesty or breach of trust to participate in the business of life settlements.

(d) (1) Life settlement contracts and applications for life settlement contracts shall contain the following statement or a substantially similar statement, regardless of the form of transmission: "Any person who knowingly presents false information in an application for insurance or life settlement contract is guilty of a crime and may be subject to fines and confinement in prison."

(2) The lack of a statement as required in subdivision (1) of this subsection shall not constitute a defense in any prosecution for a fraudulent life settlement act.

(e) (1) Any person engaged in the business of life settlements having knowledge or a reasonable belief that a fraudulent life settlement act is being, will be or has been committed shall provide to the commissioner the information required by, and in a manner prescribed by, the commissioner.

(2) Any other person having knowledge or a reasonable belief that a fraudulent life settlement act is being, will be or has been committed shall provide to the commissioner the information required by, and in a manner prescribed by, the commissioner.

(f) (1) No civil liability shall be imposed on and no cause of action shall arise from a person's furnishing information concerning suspected, anticipated or completed fraudulent life settlement acts or suspected or completed fraudulent insurance acts, if the information is provided to or received from: (A) The commissioner or the

***Substitute House Bill No. 5512***

commissioner's employees, agents or representatives; (B) federal, state or local law enforcement or regulatory officials or their employees, agents or representatives; (C) a person involved in the prevention and detection of fraudulent life settlement acts or that person's agents, employees or representatives; (D) any regulatory body or their employees, agents or representatives, overseeing life insurance, life settlements, securities or investment fraud; (E) the life insurer that issued the life insurance policy covering the life of the insured; or (F) the licensee or its agents, employees or representatives.

(2) Subdivision (1) of this subsection shall not apply to statements made with actual malice. In an action brought against a person for filing a report or furnishing other information concerning a fraudulent life settlement act or a fraudulent insurance act, the party bringing the action shall plead specifically any allegation that subdivision (1) of this subsection does not apply because the person filing the report or furnishing the information did so with actual malice.

(3) A person identified in subdivision (1) of this subsection shall be entitled to an award of attorney's fees and costs if such person is the prevailing party in a civil cause of action for libel, slander or any other relevant tort arising out of activities in carrying out the provisions of this part and the party bringing the action was not substantially justified in doing so. For the purpose of this section, a proceeding is "substantially justified" if it had a reasonable basis in law or fact at the time that it was initiated.

(4) This section does not abrogate or modify common law or statutory privileges or immunities enjoyed by a person described in subdivision (1) of this subsection.

(g) (1) The documents and evidence provided pursuant to subsection (f) of this section or obtained by the commissioner in an investigation of suspected or actual fraudulent life settlement acts shall

***Substitute House Bill No. 5512***

be privileged and confidential and shall not be a public record or subject to discovery or subpoena in a civil or criminal action.

(2) Subdivision (1) of this subsection does not prohibit release by the commissioner of documents and evidence obtained in an investigation of suspected or actual fraudulent life settlement acts: (A) In administrative or judicial proceedings to enforce laws administered by the commissioner; (B) to federal, state or local law enforcement or regulatory agencies, to an organization established for the purpose of detecting and preventing fraudulent life settlement acts or to the National Association of Insurance Commissioners; or (C) at the discretion of the commissioner, to a person in the business of life settlements that is aggrieved by a fraudulent life settlement act.

(3) Release of documents and evidence under subdivision (2) of this subsection does not abrogate or modify the privilege granted in subdivision (1) of this subsection.

(h) Nothing in this part shall be construed to:

(1) Preempt the authority or relieve the duty of other law enforcement or regulatory agencies to investigate, examine and prosecute suspected violations of law;

(2) Preempt, supersede, or limit any provision of any state securities law or any rule, order or notice issued thereunder;

(3) Prevent or prohibit a person from voluntarily disclosing information concerning life settlement fraud to a law enforcement or regulatory agency other than the insurance department; or

(4) Limit the powers granted elsewhere by the laws of this state to the commissioner or an insurance fraud unit to investigate and examine possible violations of law and to take appropriate action against wrongdoers.

***Substitute House Bill No. 5512***

(i) (1) Providers and brokers shall have in place antifraud initiatives reasonably calculated to detect, prosecute and prevent fraudulent life settlement acts. The commissioner may order, or a licensee may request and the commissioner may grant, such modifications of the following required initiatives as necessary to ensure an effective antifraud program. The modifications may be more or less restrictive than the required initiatives as long as the modifications may reasonably be expected to accomplish the purpose of this section. Antifraud initiatives shall include: (A) Fraud investigators, who may be provider or broker employees or independent contractors; and (B) an antifraud plan that shall be submitted to the commissioner.

(2) The antifraud plan specified in subparagraph (B) of subdivision (1) of this subsection shall include, but not be limited to:

(A) A description of the procedures for detecting and investigating possible fraudulent life settlement acts and procedures for resolving material inconsistencies between medical records and insurance applications;

(B) A description of the procedures for reporting possible fraudulent life settlement acts to the commissioner;

(C) A description of the plan for antifraud education and training of underwriters and other personnel; and

(D) A description or chart outlining the organizational arrangement of the antifraud personnel responsible for the investigation and reporting of possible fraudulent life settlement acts and investigating unresolved material inconsistencies between medical records and insurance applications.

(3) Antifraud plans submitted to the commissioner shall be privileged and confidential and shall not be a public record or subject to discovery or subpoena in a civil or criminal action.

**Substitute House Bill No. 5512**

Sec. 12. Section 38a-465k of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2008*):

[No viatical settlement provider may sell, assign, transfer or pledge a viaticated policy except to a viatical settlement provider licensed pursuant to section 38a-465a, or a person not required to be licensed under sections 38a-465 to 38a-465m, inclusive.]

(a) In addition to the penalties and other enforcement provisions of this part, if any person violates this part or any regulation implementing this part, the commissioner may seek an injunction in a court of competent jurisdiction and may apply for temporary and permanent orders that the commissioner determines are necessary to restrain the person from further committing the violation.

(b) Any person damaged by the acts of a person in violation of this part or any regulation implementing this part may bring a civil action for damages in a court of competent jurisdiction against the person committing the violation.

(c) The commissioner may issue, in accordance with the provisions of chapter 54, a cease and desist order upon a person that violates any provision of this part, any regulation or order adopted by the commissioner or any written agreement entered into with the commissioner.

(d) When the commissioner finds that an activity in violation of this part presents an immediate danger to the public that requires an immediate final order, the commissioner may issue an emergency cease and desist order reciting with particularity the facts underlying the findings. The emergency cease and desist order is effective immediately upon service of a copy of the order on the respondent and shall remain effective for ninety days from the date of service. If the commissioner begins nonemergency cease and desist proceedings, the

***Substitute House Bill No. 5512***

emergency cease and desist order shall remain effective, absent an order by a court of competent jurisdiction.

(e) In the event of a wilful violation of this part, the trial court may award statutory damages in addition to actual damages in an amount up to three times the actual damage award.

(f) The provisions of this part shall not be waived by agreement.

(g) No choice of law provision shall be utilized to prevent the application of this part to any settlement in which a party to the settlement is a resident of this state.

Sec. 13. Section 38a-465l of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2008*):

[Any viatical settlement provider or viatical settlement broker who is acting in such capacity in this state as of January 1, 1998, may continue to operate in such capacity pending approval or disapproval of such provider's or broker's application for a license pursuant to section 38a-465a, provided such application is filed with the commissioner not later than thirty days after January 1, 1998.]

(a) It shall be a violation of this part for any person, provider, broker or any other party related to the business of life settlements to commit a fraudulent life settlement act.

(b) A person that commits a fraudulent life settlement act is guilty of committing insurance fraud and shall be subject to additional penalties under section 53a-215.

(c) The commissioner shall be authorized to levy a civil penalty not to exceed one hundred thousand dollars and the amount of the claim for each violation upon any person, including those persons and their employees licensed pursuant to this part, found to have committed a

**Substitute House Bill No. 5512**

fraudulent life settlement act or violated any other provision of this part.

(d) The license of a person licensed under this part who commits a fraudulent life settlement act shall be revoked for a period of not less than one year.

Sec. 14. Section 38a-465m of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2008*):

(a) The commissioner may adopt regulations, in accordance with the provisions of chapter 54, to implement the provisions of sections 38a-465 to 38a-465l, inclusive, as amended by this act, and sections 38a-465n to 38a-465q, inclusive, as amended by this act.

(b) Such regulations may establish standards for evaluating reasonableness of payments under [viatical] life settlement contracts. [for persons who are terminally or chronically ill.] Such regulations may include, but are not limited to, the regulation of discount rates used to determine the amount paid in exchange for assignment, transfer, sale, devise or bequest of a benefit under a life insurance policy.

(c) Such regulations may establish appropriate licensing requirements and standards for continued licensure for [viatical settlement] providers [,] and [viatical settlement] brokers, [and viatical settlement investment agents.]

(d) The commissioner may require a bond or other mechanism for financial accountability for [viatical settlement] providers and brokers.

(e) Such regulations may adopt rules governing the relationship and responsibilities of [both insurers and viatical settlement] providers, [viatical settlement] brokers, insurers and their agents, [and viatical settlement investment agents during the viatication of a life insurance

**Substitute House Bill No. 5512**

policy or certificate] pursuant to the requirements of this part.

(f) If there is more than one owner on a single policy and the owners are residents of different states, the life settlement contract shall be governed by the law of the state in which the owner having the largest percentage ownership resides or, if the owners hold equal ownership, the state of residence of one owner agreed upon in writing by all of the owners. In the event that equal owners fail to agree in writing upon a state of residence for jurisdictional purposes, the law of the state of the insured shall govern.

(g) A provider in this state that enters into a life settlement contract with an owner who is a resident of another state that has enacted statutes or adopted regulations governing life settlement contracts shall be governed in the effectuation of such life settlement contract by the statutes and regulations of the owner's state of residence. If the state in which the owner is a resident has not enacted statutes or regulations governing life settlement contracts, the provider shall provide notice to the owner that neither state regulates the transaction upon which the owner is entering, except that for transactions in such states, the provider shall maintain all records required if the transactions were executed in the owner's state of residence. The forms used in such states need not be approved by the commissioner.

(h) If there is a conflict in the laws that apply to an owner and a provider in any individual transaction, the laws of the state that apply to the owner shall take precedence and the provider shall comply with those laws.

Sec. 15. Section 38a-465n of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2008*):

[(a) This section shall apply to the advertising of viatical settlement contracts, viatical settlement purchase agreements or related products



***Substitute House Bill No. 5512***

or services. Where disclosure requirements are established pursuant to federal law, this section shall be interpreted to minimize or eliminate conflict with the federal law.]

[(b)] (a) Each person licensed pursuant to this part [shall establish and at all times maintain a system of control over the content, form and method of dissemination of all advertisements of its contracts, products and services. Each advertisement, regardless of by whom written, created, designed or presented, shall be the responsibility of the viatical settlement licensee, as well as the individual who created or presented the advertisement. A system of control shall include regular routine notification, at least once a year, to agents and others authorized by the licensee who disseminate advertisements of the requirements and procedures for approval prior to the use of any advertisements not furnished by the licensee] may conduct or participate in advertisements within this state. Such advertisements shall be accurate, truthful and not misleading in fact or by implication.

(b) No person or trust shall:

(1) Directly or indirectly market, advertise, solicit or otherwise promote the purchase of a policy for the sole purpose of or with an emphasis on settling the policy; or

(2) Use the words "free", "no cost" or words of similar import in the marketing, advertising, soliciting or otherwise promoting of the purchase of a policy.

[(c)] Advertisements shall be truthful and not misleading in fact or by implication. The form and content of an advertisement of a viatical settlement contract or viatical settlement purchase agreement, product or service shall be sufficiently complete and clear so as to avoid deception. The advertisement shall not have the capacity or tendency to mislead or deceive. Whether an advertisement has the capacity or

***Substitute House Bill No. 5512***

tendency to mislead or deceive shall be determined by the commissioner from the overall impression that the advertisement may be reasonably expected to create upon a person of average education or intelligence within the segment of the public to which it is directed.

(d) Certain viatical settlement advertisements are deemed false and misleading on their face and are prohibited. False and misleading viatical settlement advertisements include, but are not limited to, advertisements that include the following representations:

(1) "Guaranteed", "fully secured", "100 per cent secured", "fully insured", "secure", "safe", "backed by rated insurance companies", "backed by federal law", "backed by state law", "state guaranty funds" or similar representations;

(2) "No risk", "minimal risk", "low risk", "no speculation", "no fluctuation" or similar representations;

(3) Qualified or approved for individual retirement accounts, Roth IRAs, 401(k) plans, simplified employee pensions, 403(b) plans, Keogh plans, TSA or other retirement account rollovers, "tax deferred" or similar representations;

(4) Utilization of the word "guaranteed" to describe the fixed return, annual return, principal, earnings, profits, investment or similar representations;

(5) "No sales charges or fees" or similar representations;

(6) "High yield", "superior return", "excellent return", "high return", "quick profit" or similar representations;

(7) Purported favorable representations or testimonials about the benefits of viatical settlement contracts or viatical settlement purchase agreements as an investment, taken out of context from newspapers,

***Substitute House Bill No. 5512***

trade papers, journals, radio and television programs, and all other forms of print or electronic media.

(e) The information required to be disclosed under this section shall not be minimized, rendered obscure or presented in an ambiguous fashion or intermingled with the text of the advertisement so as to be confusing or misleading. An advertisement shall not:

(1) Omit material information or use words, phrases, statements, references or illustrations if the omission or use has the capacity, tendency or effect of misleading or deceiving viators, purchasers or prospective purchasers as to the nature or extent of any benefit, loss covered, premium payable, or state or federal tax consequence. The fact that the viatical settlement contract or viatical settlement purchase agreement offered is made available for inspection prior to consummation of the sale, or an offer is made to refund the payment if the viator is not satisfied or that the viatical settlement contract or viatical settlement purchase agreement includes a "free look" period that satisfies or exceeds legal requirements shall not remedy misleading statements;

(2) Use the name or title of a life insurance company or a life insurance policy unless the advertisement has been approved by the insurance company;

(3) Represent that premium payments will not be required to be paid on the life insurance policy that is the subject of a viatical settlement contract or viatical settlement purchase agreement in order to maintain that policy unless that is the fact;

(4) State or imply that interest charged on an accelerated death benefit or a policy loan is unfair, inequitable or in any manner an incorrect or improper practice;

(5) Include the words "free", "no cost", "without cost", "no additional

***Substitute House Bill No. 5512***

cost", "at no extra cost" or words of similar meaning with respect to any benefit or service unless true. An advertisement may specify the charge for a benefit or a service or may state that a charge is included in the payment or use other appropriate language;

(6) Include testimonials, appraisals or analysis that are not genuine. Testimonials, appraisals and analysis shall (A) represent the current opinion of the author; (B) be applicable to the viatical settlement contract or viatical settlement purchase agreement, product or service advertised, if any; and (C) be accurately reproduced with sufficient completeness to avoid misleading or deceiving prospective viators or purchasers as to the nature or scope of the testimonials, appraisals, analysis or endorsement. In using testimonials, appraisals or analysis, the licensee makes as its own all the statements contained therein, and the statements shall be subject to the provisions of this subdivision.

(i) If the individual making a testimonial, appraisal, analysis or an endorsement has a financial interest in the viatical settlement provider or related entity as a stockholder, director, officer, employee or otherwise, or receives any benefit directly or indirectly other than required union scale wages, that fact shall be prominently disclosed in the advertisement.

(ii) An advertisement shall not state or imply that a viatical settlement contract or viatical settlement purchase agreement, benefit or service has been approved or endorsed by a group of individuals, society, association or other organization unless that is the fact and unless any relationship between an organization and the viatical settlement licensee is disclosed. If the entity making the endorsement or testimonial is owned, controlled or managed by the viatical settlement licensee, or receives any payment or other consideration from the viatical settlement licensee for making an endorsement or testimonial, that fact shall be disclosed in the advertisement.

***Substitute House Bill No. 5512***

(iii) When an endorsement refers to benefits received under a viatical settlement contract or viatical settlement purchase agreement all pertinent information shall be retained for a period of five years after its use.

(f) An advertisement shall not contain statistical information unless the information accurately reflects recent and relevant facts. The source of all statistics used in an advertisement shall be identified.

(g) An advertisement shall not disparage insurers, viatical settlement providers, viatical settlement brokers, viatical settlement investment agents, insurance producers, policies, services or methods of marketing.

(h) The name of the licensee shall be clearly identified in all advertisements about the licensee or its viatical settlement contract or viatical settlement purchase agreements, products or services, and if any specific viatical settlement contract or viatical settlement purchase agreement is advertised, the viatical settlement contract or viatical settlement purchase agreement shall be identified either by form number or some other appropriate description. If an application is part of the advertisement, the name of the viatical settlement provider shall be shown on the application.

(i) An advertisement shall not use a trade name, group designation, name of the parent company of a licensee, name of a particular division of the licensee, service mark, slogan, symbol or other device or reference without disclosing the name of the licensee, if the advertisement would have the capacity or tendency to mislead or deceive as to the true identity of the licensee, or to create the impression that a company other than the licensee would have any responsibility for the financial obligation under a viatical settlement contract or viatical settlement purchase agreement.

***Substitute House Bill No. 5512***

(j) An advertisement shall not use any combination of words, symbols or physical materials that by their content, phraseology, shape, color or other characteristics are so similar to a combination of words, symbols or physical materials used by a government program or agency or otherwise appear to be of such a nature that they tend to mislead prospective viators or purchasers into believing that the solicitation is in some manner connected with a government program or agency.

(k) An advertisement may state that a licensee is licensed in the state where the advertisement appears, provided it does not exaggerate that fact or suggest or imply that competing licensees may not be so licensed. The advertisement may ask the audience to consult the licensee's web site or contact the Insurance Department to find out if the state requires licensing and, if so, whether the viatical settlement provider, viatical settlement broker or viatical settlement investment agent is licensed.

(l) An advertisement shall not create the impression that the viatical settlement provider, its financial condition or status, the payment of its claims or the merits, desirability, or advisability of its viatical settlement contracts or viatical settlement purchase agreement forms are recommended or endorsed by any government entity.

(m) The name of the licensee shall be stated in all of the licensee's advertisements. An advertisement shall not use a trade name, any group designation, name of any affiliate or controlling entity of the licensee, service mark, slogan, symbol or other device in a manner that would have the capacity or tendency to mislead or deceive as to the true identity of the licensee or create the false impression that an affiliate or controlling entity would have any responsibility for the financial obligation of the licensee.

(n) An advertisement shall not directly or indirectly create the

**Substitute House Bill No. 5512**

impression that any division or agency of the state or of the United States government endorses, approves or favors:

- (1) Any licensee or its business practices or methods of operation;
  - (2) The merits, desirability or advisability of any viatical settlement contract or viatical settlement purchase agreement;
  - (3) Any viatical settlement contract or viatical settlement purchase agreement; or
  - (4) Any life insurance policy or life insurance company.
- (o) If the advertisement emphasizes the speed with which the viatication will occur, the advertisement shall disclose the average time frame from completed application to the date of offer and from acceptance of the offer to receipt of the funds by the viator.
- (p) If the advertisement emphasizes the dollar amounts available to viators, the advertisement shall disclose the average purchase price as a per cent of face value obtained by viators contracting with the licensee during the past six months.]

Sec. 16. Section 38a-465o of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2008*):

Notwithstanding the manner in which the [viatical] life settlement broker is compensated, a [viatical] life settlement broker is deemed to represent only the [viator] owner and owes a fiduciary duty to the [viator] owner to act according to the [viator's] owner's instructions and in the best interest of the [viator] owner.

Sec. 17. Section 38a-465p of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2008*):

- [(a) A viatical settlement investment agent shall not have any

**Substitute House Bill No. 5512**

contact directly or indirectly with the viator or have knowledge of the identity of the viator.

(b) A viatical settlement investment agent is deemed to represent the viatical settlement provider for whom the viatical settlement investment agent is an appointed or contracted agent.]

(a) Any provider or broker lawfully transacting business in this state prior to October 1, 2008, may continue to do so pending approval or disapproval of such provider or broker's application for a license, provided such application is filed with the commissioner not later than thirty days after October 1, 2008. During the time that such application is pending with the commissioner, the applicant may use any form of life settlement contract that has been filed with the commissioner pending approval thereof, provided that such form is otherwise in compliance with the provisions of this part. Any person transacting business in this state under this provision shall be obligated to comply with all other requirements of this part.

(b) Any person who has lawfully negotiated life settlement contracts between any owner residing in this state and one or more providers for not less than one year immediately prior to October 1, 2008, may continue to do so pending approval or disapproval of that person's application for a license, provided such application is filed with the commissioner not later than thirty days after October 1, 2008. Any person transacting business in this state under this provision shall be obligated to comply with all other requirements of this part.

Sec. 18. Section 38a-465q of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2008*):

A related provider trust shall have a written agreement with the licensed [viatical settlement] provider under which the licensed [viatical settlement] provider is responsible for ensuring compliance



**Substitute House Bill No. 5512**

with all statutory and regulatory requirements and under which the trust agrees to make all records and files related to [viatical] life settlement transactions available to the commissioner as if those records and files were maintained directly by the licensed [viatical settlement] provider.

Sec. 19. Subsection (a) of section 38a-11 of the 2008 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2008*):

(a) The commissioner shall demand and receive the following fees: (1) For the annual fee for each license issued to a domestic insurance company, one hundred dollars; (2) for receiving and filing annual reports of domestic insurance companies, twenty-five dollars; (3) for filing all documents prerequisite to the issuance of a license to an insurance company, one hundred seventy-five dollars, except that the fee for such filings by any health care center, as defined in section 38a-175, shall be one thousand one hundred dollars; (4) for filing any additional paper required by law, fifteen dollars; (5) for each certificate of valuation, organization, reciprocity or compliance, twenty dollars; (6) for each certified copy of a license to a company, twenty dollars; (7) for each certified copy of a report or certificate of condition of a company to be filed in any other state, twenty dollars; (8) for amending a certificate of authority, one hundred dollars; (9) for each license issued to a rating organization, one hundred dollars. In addition, insurance companies shall pay any fees imposed under section 12-211; (10) a filing fee of twenty-five dollars for each initial application for a license made pursuant to section 38a-769; (11) with respect to insurance agents' appointments: (A) A filing fee of twenty-five dollars for each request for any agent appointment, except that no filing fee shall be payable for a request for agent appointment by an insurance company domiciled in a state or foreign country which does not require any filing fee for a request for agent appointment for a

***Substitute House Bill No. 5512***

Connecticut insurance company; (B) a fee of forty dollars for each appointment issued to an agent of a domestic insurance company or for each appointment continued; and (C) a fee of twenty dollars for each appointment issued to an agent of any other insurance company or for each appointment continued, except that no fee shall be payable for an appointment issued to an agent of an insurance company domiciled in a state or foreign country which does not require any fee for an appointment issued to an agent of a Connecticut insurance company; (12) with respect to insurance producers: (A) An examination fee of seven dollars for each examination taken, except when a testing service is used, the testing service shall pay a fee of seven dollars to the commissioner for each examination taken by an applicant; (B) a fee of forty dollars for each license issued; (C) a fee of forty dollars per year, or any portion thereof, for each license renewed; and (D) a fee of forty dollars for any license renewed under the transitional process established in section 38a-784; (13) with respect to public adjusters: (A) An examination fee of seven dollars for each examination taken, except when a testing service is used, the testing service shall pay a fee of seven dollars to the commissioner for each examination taken by an applicant; and (B) a fee of one hundred twenty-five dollars for each license issued or renewed; (14) with respect to casualty adjusters: (A) An examination fee of ten dollars for each examination taken, except when a testing service is used, the testing service shall pay a fee of ten dollars to the commissioner for each examination taken by an applicant; (B) a fee of forty dollars for each license issued or renewed; and (C) the expense of any examination administered outside the state shall be the responsibility of the entity making the request and such entity shall pay to the commissioner one hundred dollars for such examination and the actual traveling expenses of the examination administrator to administer such examination; (15) with respect to motor vehicle physical damage appraisers: (A) An examination fee of forty dollars for each examination taken, except when a testing service is used, the

***Substitute House Bill No. 5512***

testing service shall pay a fee of forty dollars to the commissioner for each examination taken by an applicant; (B) a fee of forty dollars for each license issued or renewed; and (C) the expense of any examination administered outside the state shall be the responsibility of the entity making the request and such entity shall pay to the commissioner one hundred dollars for such examination and the actual traveling expenses of the examination administrator to administer such examination; (16) with respect to certified insurance consultants: (A) An examination fee of thirteen dollars for each examination taken, except when a testing service is used, the testing service shall pay a fee of thirteen dollars to the commissioner for each examination taken by an applicant; (B) a fee of two hundred dollars for each license issued; and (C) a fee of one hundred twenty-five dollars for each license renewed; (17) with respect to surplus lines brokers: (A) An examination fee of ten dollars for each examination taken, except when a testing service is used, the testing service shall pay a fee of ten dollars to the commissioner for each examination taken by an applicant; and (B) a fee of five hundred dollars for each license issued or renewed; (18) with respect to fraternal agents, a fee of forty dollars for each license issued or renewed; (19) a fee of thirteen dollars for each license certificate requested, whether or not a license has been issued; (20) with respect to domestic and foreign benefit societies shall pay: (A) For service of process, twenty-five dollars for each person or insurer to be served; (B) for filing a certified copy of its charter or articles of association, five dollars; (C) for filing the annual report, ten dollars; and (D) for filing any additional paper required by law, three dollars; (21) with respect to foreign benefit societies: (A) For each certificate of organization or compliance, four dollars; (B) for each certified copy of permit, two dollars; and (C) for each copy of a report or certificate of condition of a society to be filed in any other state, four dollars; (22) with respect to reinsurance intermediaries: A fee of five hundred dollars for each license issued or renewed; (23) with respect to [viatical] life settlement providers: (A) A filing fee of thirteen dollars

**Substitute House Bill No. 5512**

for each initial application for a license made pursuant to section 38a-465a, as amended by this act; and (B) a fee of twenty dollars for each license issued or renewed; (24) with respect to [viatical] life settlement brokers: (A) A filing fee of thirteen dollars for each initial application for a license made pursuant to section 38a-465a, as amended by this act; and (B) a fee of twenty dollars for each license issued or renewed; (25) [with respect to viatical settlement investment agents: (A) A filing fee of thirteen dollars for each initial application for a license made pursuant to section 38a-465a; and (B) a fee of twenty dollars for each license issued or renewed; (26)] with respect to preferred provider networks, a fee of two thousand five hundred dollars for each license issued or renewed; [(27)] (26) with respect to rental companies, as defined in section 38a-799, a fee of forty dollars for each permit issued or renewed; [(28)] (27) with respect to medical discount plan organizations licensed under section 38a-479rr, a fee of five hundred dollars for each license issued or renewed; [(29)] (28) with respect to pharmacy benefits managers, an application fee of fifty dollars for each registration issued or renewed; and [(30)] (29) with respect to each duplicate license issued a fee of twenty-five dollars for each license issued.

Sec. 20. Subsection (a) of section 38a-25 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2008*):

(a) The Insurance Commissioner is the agent for receipt of service of legal process on the following:

(1) Foreign and alien insurance companies authorized to do business in this state in any proceeding arising from or related to any transaction having a connection with this state.

(2) Fraternal benefit societies authorized to do business in this state.

***Substitute House Bill No. 5512***

(3) Insurance-support organizations as defined in section 38a-976, transacting business outside this state which affects a resident of this state.

(4) Risk retention groups, as defined in section 38a-250.

(5) Purchasing groups designating the Insurance Commissioner as agent for receipt of service of process pursuant to section 38a-261.

(6) Eligible surplus lines insurers authorized by the commissioner to accept surplus lines insurance.

(7) Except as provided by section 38a-273, unauthorized insurers or other persons assisting unauthorized insurers who directly or indirectly do any of the acts of insurance business as set forth in subsection (a) of section 38a-271.

(8) The Connecticut Insurance Guaranty Association and the Connecticut Life and Health Insurance Guaranty Association.

(9) Insurance companies designating the Insurance Commissioner as agent for receipt of service of process pursuant to subsection (g) of section 38a-85.

(10) Nonresident insurance producers and nonresident surplus lines brokers licensed by the Insurance Commissioner.

(11) [Viatical] Life settlement providers [, viatical] and life settlement brokers [, and viatical settlement investment agents] licensed by the commissioner.

(12) Nonresident reinsurance intermediaries designating the commissioner as agent for receipt of service of process pursuant to section 38a-760b.

(13) Workers' compensation self-insurance groups, as defined in

***Substitute House Bill No. 5512***

section 38a-1001.

(14) Persons alleged to have violated any provision of section 38a-130.

(15) Captive insurers, as defined in section 38a-91k.

Sec. 21. Subdivision (20) of section 38a-816 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2008*):

(20) Any violation of sections 38a-465 to [38a-465m,] 38a-465q, inclusive, as amended by this act.

Approved June 12, 2008